

Restitution Subcommittee
Looted Property

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Looted Property*

STANDARD FORM NO. 64

Office Memorandum · UNITED STATES GOVERNMENT

DATE: 15 Sept. 1947

TO : Mr. R. W. Barnett
FROM : D. K. Eichler.
SUBJECT: Report of Ad Hoc Subcommittee on
Restitution

Would appreciate having any
corrections you might care to
make some time this afternoon.

D. K. Eichler

Mr. Garrett (U.S.)

REPORT OF THE AD HOC SUBCOMMITTEE ON
RESTITUTION OF LOOTED PROPERTY

The ad hoc Subcommittee comprising the Chinese, Soviet, United Kingdom and United States representatives, appointed at the 70th meeting of the Far Eastern Commission on 14 August 1947, has considered five amendments to FEC-011/32 (Restitution of Looted Property) proposed by the Chinese member and one amendment proposed by the Soviet member. The results of the Subcommittee's deliberations are summarized in the six numbered paragraphs below.

Before discussing the several amendments put before the Subcommittee the U.S. member stated that any agreement which he might express on any particular proposal would be contingent upon the Subcommittee's ability to effect a compromise on the other proposals under discussion. Should it prove impossible to secure general agreement on the proposals the U.S. delegation reserved the right to limit its support to the version of the paper shown in FEC-011/32.

The United Kingdom member said that this was also his position.

All paragraph references in the following are to FEC-011/32, Restitution of Looted Property.

1. The Subcommittee agreed to amend the first sentence of paragraph 2 as follows:

After full opportunities have been given, having regard for the provisions of paragraph 14, for inspection of to inspect and claim objects known to have been looted, etc.

The Soviet member's position was reserved on this amendment.

2. The Subcommittee agreed to extend the period for filing claims in paragraph 14 from 8 months to 12 months.

The Soviet member's position was reserved on this amendment.

3. The Subcommittee agreed to amend the penultimate sentence of paragraph 3 as follows:

The secured fund should finally be distributed among the countries herein specified in accordance with the percentages mentioned above, payable in U.S. dollars, or, at the discretion of SCAP, in foreign exchange acceptable to the recipient countries concerned.

The Soviet member's position was reserved on this amendment.

4. The Chinese member proposed an amendment to paragraph 2 providing for distribution of the proceeds from the liquidation of unidentified looted property immediately upon liquidation.

The Chinese position was that the use of unidentified looted property in the manner prescribed by paragraph 2 discriminated against the looted countries in favor of the Japanese.

The U.S. member said that the Chinese amendment was unacceptable to his Government. His Government's position in this matter was that the procedure set forth in paragraph 2 was an equitable one for the looted countries in that it granted them an equity in unidentified looted property.

The U.K. member said that the Chinese amendment was unacceptable to his Government for substantially the same reasons as those given by the U.S. member.

The Soviet member said that while he did not have instructions on the Chinese amendment he would be able to support it in a personal capacity.

It is the Subcommittee's view that this matter is susceptible of adjustment.

5. The Chinese member proposed a further amendment to paragraph 2 with regard to the distribution of the proceeds from liquidation of unidentified looted property. The Chinese proposal was that China, by reason of the extraordinary looting of her country by the Japanese, should receive not less than 50% of the proceeds from the liquidation of unidentified property.

The U.S. member pointed out that his Government had no substantive interest in this amendment but found it unacceptable for the following two reasons: (1) It was doubtful whether it would be acceptable to the six other looted countries, and (2) as experience with negotiation of division of shares for reparations would seem to indicate, separate negotiation of shares for restitution would result in excessive delays in settling the restitution problem. However, if the other looted countries besides China would agree to negotiate percentages for restitution among themselves without delaying passage of the paper as a whole, the U.S. Government ~~would~~ ^{might} not object.

The U.K. member said his Government desired the retention of the present wording of paragraph 2, namely that ultimate distribution of the secured fund should be in accordance with "recognized national reparations percentage shares of industrial assets available from within Japan". He could not agree ~~to~~ to preferential treatment for China.

The Chinese member said that his Government had no intention of seeking preferential treatment for China in this matter but was concerned solely with obtaining equitable treatment. His Government did not feel that distribution of the proceeds from the sale of unidentified looted property according to reparations shares was an equitable method of distribution because it implied that the criteria used for computing shares for eleven countries in industrial assets inside Japan available for reparations were equally valid in computing shares for the seven looted countries in unidentified looted property. But reparations and restitution were two quite different problems with a different set of conditions governing each problem. The Far Eastern Commission had decided as a matter of policy that the shares of each EEC country in reparations from Japan should be determined on a broad political basis, taking into due account the scope of the damage and destruction suffered by each country and the scope of its contribution to the defeat of Japan. Reparations percentage shares would thus reflect the relative standing of eleven countries with respect to the conditions laid down in these criteria. However, only seven of these eleven countries were looted by Japan. The other four were never occupied by the Japanese and thus never suffered through looting. Special factors must therefore be considered in determining equitably the relative losses of the seven countries through looting, such factors as the size of the area occupied, the duration of the occupation of that area, etc. It seemed clear to the Chinese Government, therefore, that distribution of the proceeds from the sale of unidentified looted property in accordance with reparations percentage shares was an inequitable method of distribution.

because it ignored the unique position of the seven looted countries and did not take into account those special factors without which it was impossible to determine accurately the relative losses incurred by the seven countries through looting.

The Soviet member reserved his position but said he would support the Chinese proposal if the other looted countries favored it.

6. The Soviet member, supported by the Chinese member, proposed the following amendment to paragraph 10:

The cost of the necessary work of the salvaging, repairing and refitting of looted ships in the cases where they were sunk or damaged should be borne by the Japanese Government.

The U.K. and U.S. members were opposed to the inclusion of this subject in a restitution paper.

The Chinese member said that, while his Government would prefer some mention in the restitution paper of the general principle contained in the Soviet amendment, it would not oppose treatment of this subject in a separate paper.

The Soviet member said that his Government could not agree to the proposal for treating the subject of repairing and refitting looted ships found in non-Japanese waters in a separate paper and would insist on the inclusion of its proposed amendment in paragraph 10 of the restitution paper.

FEC-RESTRICTEDFAR EASTERN COMMISSIONAD HOC SUBCOMMITTEE ON RESTITUTION OF
LOOTED PROPERTY

Attached is a summary of the tentative conclusions reached by the ad hoc Subcommittee on Restitution of Looted Property (FEC-011/32) at its last meeting on 9 September 1947, together with a more detailed report of the discussion at that meeting. The two documents are stapled separately and both will be circulated to members of the Subcommittee only unless the Secretariat is otherwise instructed at the next meeting of the Subcommittee.

FEC-RESTRICTEDSUMMARY OF CONCLUSIONS OF AD HOC SUBCOMMITTEE ON
RESTITUTION OF LOOTED PROPERTY

The ad hoc Subcommittee appointed at the 70th meeting of the FEC on 14 August to consider certain amendments by the Chinese and Soviet Members to the paper on Restitution of Looted Property (FEC-011/32) has discussed these amendments at three meetings with the following results:

1. The Subcommittee agreed to amend the first sentence of para. 8 as follows:

After full opportunities have been given, and having regard for the provisions of para. 14, for inspection of to inspect and claim objects known to have been looted, etc.

The Chinese Member, while preferring a somewhat different version, gave his personal approval to the above amendment. The U. K. Member, while preferring the original wording in FEC-011/32, was willing to support the above if it would facilitate early passage of the paper. The U. S. Member was willing to approve the above amendment contingent upon the Subcommittee's ability to effect a compromise on other Chinese proposals.

2. The Subcommittee agreed to change the period for filing claims in paragraph 14 from 8 to 12 months. The U. K. Member said that, while preferring the 8-months period in FEC-011/32, he would approve the above amendment if it would facilitate early passage of the paper. The U. S. Member said his Government preferred the original 6-months period but had subsequently agreed to an extension of the period to 8 months. His Government would, however, support the above amendment contingent upon the Subcommittee's ability to effect a compromise on other Chinese proposals.

3. The Subcommittee agreed to adopt a drafting proposal by the Chinese Member amending the last two sentences of paragraph 8 as follows:

The secured fund should finally be distributed among the countries herein specified in accordance with the percentages mentioned above, payable in U. S. dollars, or, at the discretion of SCAP, in foreign exchange acceptable to the recipient countries concerned. Such distribution should be affected not later than 1 January 1950.

4. The Chinese Member proposed an amendment to paragraph 8 providing for distribution of the proceeds from the liquidation of unidentified looted property immediately upon liquidation. This would require abandonment of the idea of the "secured fund" in this paragraph.

The Chinese position was that the use of unidentified looted property in the manner prescribed by paragraph 8 discriminated against the looted countries in favor of the Japanese.

The U. S. Member said the Chinese amendment was unacceptable to his Government. His Government's position in this matter was that the procedure in paragraph 8 was an equitable one for the looted countries in that it granted them an equity in unidentified looted property, and that the revolving fund provision constituted a realistic approach to the problem of rehabilitating the Japanese economy.

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The U. K. Member said that the Chinese amendment was also unacceptable to his Government for substantially the same reasons as those given by the U. S. Member. It was the further feeling of his Government that unidentified looted property should be dealt with on a realistic basis.

The Soviet Member said that while he did not have instructions on the proposed Chinese amendment, he would be able to support the amendment in a personal capacity.

5. The Chinese Member proposed a further amendment to paragraph 8 giving special consideration to China in the distribution of the proceeds from liquidation of unidentified looted property. The Chinese proposal was that China, by reason of the extraordinary looting of her country by the Japanese, should receive not less than 60% of the proceeds from the liquidation of unidentified looted property.

The U. S. Member said this amendment would be unacceptable to his Government for two reasons: (1) It was doubtful whether it would be acceptable to the six other looted countries and (2) as experience with negotiation of the division of shares for reparations would seem to indicate, separate negotiation of shares for restitution would result in excessive delays in settling the restitution problem. If the other looted countries besides China would agree, however, to negotiate percentages among themselves for restitution, the U. S. Government would not object. Otherwise the U. S. Member said his Government would be unable to accept the Chinese proposal.

The U. K. Member said his Government preferred distribution of the proceeds from the liquidation of unidentified looted property in proportion to reparations shares.

The Soviet Member said he would support the Chinese proposal if the other looted countries favored it.

6. The Soviet Member, supported by the Chinese Member, proposed the following amendment to paragraph 10:

The cost of the necessary work of the salvaging, repairing and refitting of ships in the cases where they were sunk or damaged should be borne by the Japanese Government.

The U. K. and U. S. Members favored treatment of this subject in a separate paper.

The Chinese Member said that, while his Government would prefer some mention in the restitution paper of the general principle contained in the Soviet amendment, they would not oppose treatment of this subject in a separate paper.

The Soviet Member preferred specific mention in the restitution paper of the general principle contained in his proposal with the understanding the details would be worked out later.

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1. The Subcommittee agreed to amend the first sentence of para. 8 as follows:

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The Chinese Member, while preferring a somewhat different version, gave his personal approval to the above amendment. The U. K. Member, while preferring the original wording in FEC-011/32, was willing to support the above if it would facilitate early passage of the paper. The U. S. Member was willing to approve the above amendment contingent upon the Subcommittee's ability to effect a compromise on other Chinese proposals.

2. The Subcommittee agreed to change the period for filing claims in paragraph 14 from 8 to 12 months. The U. K. Member said that, while preferring the 8-months period in FEC-011/32, he would approve the above amendment if it would facilitate early passage of the paper. The U. S. Member said his Government preferred the original 6-months period but had subsequently agreed to an extension of the period to 8 months. His Government would, however, support the above amendment contingent upon the Subcommittee's ability to effect a compromise on other Chinese proposals.

3. The Subcommittee agreed to adopt a drafting proposal by the Chinese Member amending the last two sentences of paragraph 8 as follows:

The secured fund should finally be distributed among the countries herein specified in accordance with the percentages mentioned above, payable in U. S. dollars, or, at the discretion of SCAP, in foreign exchange acceptable to the recipient countries concerned. Such distribution should be affected not later than 1 January 1950.

4. The Chinese Member proposed an amendment to paragraph 8 providing for distribution of the proceeds from the liquidation of unidentified looted property immediately upon liquidation. This would require abandonment of the idea of the "secured fund" in this paragraph.

The Chinese position was that the use of unidentified looted property in the manner prescribed by paragraph 8 discriminated against the looted countries in favor of the Japanese.

The U. S. Member said the Chinese amendment was unacceptable to his Government. His Government's position in this matter was that the procedure in paragraph 8 was an equitable one for the looted countries in that it granted them an equity in unidentified looted property, and that the revolving fund provision constituted a realistic approach to the problem of rehabilitating the Japanese economy.

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The U. K. Member said that the Chinese amendment was also unacceptable to his Government for substantially the same reasons as those given by the U. S. Member. It was the further feeling of his Government that unidentified looted property should be dealt with on a realistic basis.

The Soviet Member said that while he did not have instructions on the proposed Chinese amendment, he would be able to support the amendment in a personal capacity.

5. The Chinese Member proposed a further amendment to paragraph 8 giving special consideration to China in the distribution of the proceeds from liquidation of unidentified looted property. The Chinese proposal was that China, by reason of the extraordinary looting of her country by the Japanese, should receive not less than 60% of the proceeds from the liquidation of unidentified looted property.

The U. S. Member said this amendment would be unacceptable to his Government for two reasons: (1) It was doubtful whether it would be acceptable to the six other looted countries and (2) as experience with negotiation of the division of shares for reparations would seem to indicate, separate negotiation of shares for restitution would result in excessive delays in settling the restitution problem. If the other looted countries besides China would agree, however, to negotiate percentages among themselves for restitution, the U. S. Government would not object. Otherwise the U. S. Member said his Government would be unable to accept the Chinese proposal.

The U. K. Member said his Government preferred distribution of the proceeds from the liquidation of unidentified looted property in proportion to reparations shares.

The Soviet Member said he would support the Chinese proposal if the other looted countries favored it.

6. The Soviet Member, supported by the Chinese Member, proposed the following amendment to paragraph 10:

The cost of the necessary work of the salvaging, repairing and refitting of ships in the cases where they were sunk or damaged should be borne by the Japanese Government.

The U. K. and U. S. Members favored treatment of this subject in a separate paper.

The Chinese Member said that, while his Government would prefer some mention in the restitution paper of the general principle contained in the Soviet amendment, they would not oppose treatment of this subject in a separate paper.

The Soviet Member preferred specific mention in the restitution paper of the general principle contained in his proposal with the understanding the details would be worked out later.

FEC-RESTRICTEDSUMMARY OF DISCUSSION AT THIRD MEETING OF AD HOC
SUBCOMMITTEE ON RESTITUTION OF LOOTED PROPERTY (FEC-011/32)

(Time of Meeting: 9 September 1947 at 3 p.m.)

ATTENDANCE:

United Kingdom	Mr. Graves (chairman), Mr. Thresher
China	Dr. Tan, Dr. A. Koo
USSR	Admiral Ramishvili, Mr. Korobochkin
United States	Mr. Barnett, Mr. B. Smith
Secretary	Mr. Eichler

The Chairman, Mr. Graves, suggested that the six proposed amendments to FEC-011/32 be discussed one at a time beginning with those on which there appeared to be the widest area of agreement.

ITEM 1 - Amendment to Paragraph 14.

The Chinese Member at the first meeting of the Subcommittee had proposed extending the period for filing claims mentioned in paragraph 14 from 8 months to 12 months.

The U. S. Member recalled that the original U. S. proposal was for a 6 months period. As a result of Committee discussions the U. S. Government had agreed to an extension of this period to 8 months. While it was reluctant to extend the period further it would agree to do so provided reasonable compromise was possible on some of the other proposed Chinese amendments. The U. K. Member said that while his Government preferred 8 months it would also agree to 12 months if this would facilitate early passage of the paper. The Soviet Member had no comment but was not opposed to the amendment.

ITEM 2 - Amendment to First Sentence of Paragraph 2

The Chinese Member at the first meeting of the Subcommittee had proposed the following amendment to the first sentence of paragraph 8:

~~After full opportunities have been given, in accordance with the provision of para. 14, to inspect and claim for inspection of~~ After twelve months from the issuance of a directive to SCAP giving effect to this policy decision, SCAP should be authorized to liquidate, etc.

The Subcommittee, after discussing the Chinese proposal at the 2nd meeting of the Committee, suggested the following compromise:

After full opportunities have been given, in accordance with the provision of para. 14, to inspect and claim for inspection of objects known to have been looted, etc.

The U. S. Member said that it was the view of his Government that the wording of this first sentence in FEC-011/32 gave ample protection to the interests of the looted countries. Furthermore he pointed out that paragraphs 7 and 14 provided additional protection. However, if a compromise could be expected on other Chinese proposals his Government could agree to the Subcommittee's version.

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The Chinese Member said that he was not wholly satisfied with the Subcommittee's compromise version (above) and suggested the following wording:

After full opportunities have been given, following the filing of claims as provided for in paragraph 14, to inspect and claim objects known to have been looted, etc.

He pointed out that this version tied in the idea of "full opportunities" to inspect and claim more closely with paragraph 14.

The U. S. Member said the new Chinese wording would not be acceptable to his Government because it authorized a 12-months delay in the operation of paragraph 8.

The U. K. Member then suggested the following as an alternative:

After full opportunities have been given, and having regard for the provisions of paragraph 14, to inspect and claim objects known to have been looted, etc.

The Chinese Member, while preferring his earlier versions, said he could give his personal support to the U. K. Member's version. The U. S. Member said that the U. K. version would also be acceptable to his Government. The Soviet Member had no comments but was not opposed to the amendment.

ITEM 3 - Drafting Changes to Last Two Sentences of Paragraph 8

The Subcommittee agreed to adopt a drafting proposal by the Chinese Member amending the last two sentences of paragraph 8 as follows:

The secured fund should finally be distributed among the countries herein specified in accordance with the percentages mentioned above, payable in U. S. dollars, or, at the discretion of SCAP, in foreign exchange acceptable to the recipient countries concerned. Such distribution should be effected not later than 1 January 1950.

The Subcommittee agreed that the Chinese redraft above did not alter the substance of the last two sentences of paragraph 8 as contained in FEC-011/32. It was the view of the Subcommittee that the redraft constituted a simplification of the language of the original. The Chinese Member said that his support of this redraft was not such as to prejudice any later views he might care to express concerning the date in the last sentence.

ITEM 4 - Immediate Distribution of Proceeds from Unidentified Looted Property

The Chinese Member at the first meeting of the Subcommittee had proposed an amendment to paragraph 8 providing for distribution of the proceeds from the liquidation of unidentified looted property immediately upon liquidation. This would require abandonment of the idea of using unidentified looted property as collateral for a "secured fund" for imports into Japan of raw materials for self-liquidating manufacturing projects.

The U. S. Member said that his Government was strenuously opposed to any change in paragraph 8 which would prevent the use of the proceeds from the liquidation of unidentified looted property in a revolving fund for Japanese imports. The position of the U. S. Government, he said, was that the concept of the

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revolving fund in paragraph 8 was an equitable one for all concerned for the following reasons: (1) It granted looted countries an equity in unidentified looted property. The U. S. Member pointed out that it was not a self evident principle that looted countries should receive an equity in property which they were unable to identify, but his Government had been willing to concede this point to the looted countries in recognition of the losses which they had suffered at the hands of the Japanese. (2) The use of unidentified looted property as collateral for a revolving fund for Japanese imports seemed to the U. S. Government a realistic approach to the problem of rehabilitating the Japanese economy. The U. S. Member pointed out that the countries on the FEC were in general agreement that it would be necessary to create a viable economy for the Japanese and had apparently recognized the usefulness of the "revolving fund" project to this end at the time the paper was forwarded to the Steering Committee. At that time a majority of countries had expressed their approval of paragraph 8.

The U. S. Member further observed that the revision of FEC-011/12, the original FEC policy decision on restitution, had been begun nearly a year ago. At that time the U. S. delegation had made quite clear that its Government was satisfied with FEC-011/12, and that its participation in the redrafting of that paper had been motivated by a desire to give full considerations to the views of the looted countries. The U. S. Government had been willing during the past year to consider a substantial liberalization of the standards of identification and an expansion of the categories of looted property, as well as numerous other minor changes. The result of these changes would be a more valuable restitution program for the looted countries than that originally agreed to by those countries in FEC-011/12. In the circumstances the U. S. Government did not feel that the proposal in paragraph 8 was in any way an unreasonable one.

The U. K. Member said that his Government preferred the original paragraph 8 to the proposed Chinese amendment. It was the view of his Government, he said, that unidentified looted property should be dealt with on as realistic a basis as possible. His Government would, therefore, not oppose the use of such property for the purpose of rehabilitating in some degree the Japanese economy.

The Chinese Member said that it was the position of his Government that the use of unidentified looted property in the manner prescribed by paragraph 8 discriminated against the looted countries in favor of the Japanese. His Government was of the opinion that the degree to which looting was carried on by the Japanese during the years of their aggressive policy in the Far East was not fully appreciated by the countries which were not looted. It was felt that those who had suffered from looting during the Japanese occupation should be given the earliest possible opportunity to recoup their losses.

The Soviet Member said that although he was without formal instructions on the Chinese proposal, he would be able to give it his informal support.

There was no further discussion of this item.

ITEM 5 - 60% Share of Unidentified Looted Property for China

At the first meeting of the Subcommittee the Chinese Member proposed giving special consideration to China in the distribution of the proceeds from liquidation of unidentified looted

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3rd Meeting - 9 September 1947

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property. The Chinese proposal was that China, by reason of the extraordinary looting of her country by the Japanese, should receive not less than 60% of the proceeds from the liquidation of unidentified looted property.

In support of his Government's proposal, the Chinese Member said that few countries realized how thoroughly systematic the Japanese were in looting China. To every Japanese military unit was attached a special group for the express purpose of handling loot. This group was usually divided into 4 or 5 sub-groups. The first of these would be responsible for seeking out and seizing gold, silver, precious stones, etc. The second group would be responsible for seeking out and seizing cultural objects of the highest value. A third group would be responsible for seizing valuable manufactured goods and machinery. A fourth group would concern itself with such minor goods as wearing apparel. A fifth group would give its attention to the systematic looting of minor household items, etc. In this way the Japanese systematically looted virtually every square mile of territory in which their armies operated. Recent reports from his Government indicated that large quantities of looted materials cannot be found or identified, and for this reason it was felt that a large share for China in the proceeds from the sale of unidentified looted property was a reasonable request.

The U. S. Member said that he was not inclined to favor the Chinese proposal since it would require negotiation among the seven looted countries of percentage shares for restitution. Experience in dealing with the reparations problem indicated that negotiation of percentage shares was an extremely complex and time-consuming operation. It was felt that if negotiation had to take place on restitution shares it would be a very long time indeed before a final restitution policy could be implemented. The U. S. Member said, however, that if the seven looted countries could agree quickly and easily that pro-rating in accordance with reparations shares was inequitable and that they desired to negotiate separate restitution percentages he was confident that the U. S. Government would not object to such a procedure. In this event, he said, it might be possible to substitute in paragraph 8 for the phrase "in accordance with the percentages mentioned above" (namely "recognized national reparations percentage shares") some such phrase as "such percentages as the looted countries may decide in due course among themselves".

The U. K. Member said that his Government preferred the retention of the present wording of paragraph 8 on this point, namely that ultimate distribution of the secured fund should be in accordance with recognized national reparations percentage shares.

The Soviet Member said that he would probably be able to support the Chinese proposal if the seven looted countries favored it.

There was no further discussion of this item.

ITEM 6 - Salvaging, Repairing and Refitting Looted Ships Found in Non-Japanese Waters

The Soviet Member, supported by the Chinese Member, proposed the following amendment to paragraph 10:

The cost of the necessary work of salvaging, repairing and refitting of ships in the cases where they were sunk or damaged should be borne by the Japanese Government.

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The U. S. Member said that there were two questions he would like to discuss in connection with this proposed amendment: (1) is it practically feasible to adopt a policy requiring the Japanese to pay the costs of salvaging, repairing and refitting ships found in non-Japanese waters? (2) Even if feasible, has such a policy any place in a restitution paper? The U. S. Member said that the "costs" referred to in the Soviet proposal could not possibly have been yen costs since it would be manifestly impracticable to suppose the Japanese would be able to carry on salvaging, repairing and refitting operations in waters outside Japan. The costs referred to must, therefore, be local costs in the area in which the operations would take place. That is to say, the salvaging, repairing and refitting of ships sunk in the harbors of Shanghai and Hongkong would constitute, under the Soviet proposal, a charge against the Japanese economy. In the circumstances, he pointed out, this would mean simply a charge against the U. S. Government since the U. S. Government is at the present time meeting the deficit in the Japanese trading account from its own treasury. The U. S. Government could obviously not accept a proposal that it pay the costs of salvaging, repairing and refitting ships looted by the Japanese and found in non-Japanese waters.

The U. S. Member further pointed out that the salvaging, repairing and refitting of ships found in Japanese waters was not strictly a restitution matter, but since it involved repair of damage done was more appropriately a reparations matter. For this reason, he said, it would be better procedure to remove this subject from the restitution paper and treat it separately as a reparations problem. The U. S. Government recognized that the recovery of damaged shipping could be a valuable asset in the rehabilitation of the Far East and the countries concerned could count on sympathetic consideration by the U. S. Government of any program drawn up by the FEC that would approach this problem as a reparations problem and which would be consistent with the other reparations policies of the Commission.

The Chinese Member said that while his Government would prefer inclusion in the restitution paper of some statement of the principle contained in the proposed Soviet amendment, they would not object to treating this problem in a separate paper.

The U. K. Member said that his Government would welcome separation of this problem from the restitution paper.

Mr. Korobochkin, speaking for the Soviet delegation, said that his Government's position was that the policy on property looted by the Japanese should deal with looted property wherever it might be found. He suggested that it was not wholly accidental that members found it necessary to include paragraph 10 in the original restitution policy. This paragraph, he pointed out, dealt specifically with looted property found outside Japan. Mr. Korobochkin said he would like to point out to the U. S. Member that the intention of the Soviet amendment was expressly to require that the Japanese themselves bear the costs in connection with restoring all looted ships found outside Japan. There was no intention that the U. S. Government should pay these costs. Commenting on the resources from which Japan could possibly pay these costs, Mr. Korobochkin said that the Japanese could use any one or a combination of the following methods:

- (1) Current production of gold.
- (2) Proceeds from its export surplus.

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- (3) Special arrangements for payment with the countries concerned.

The Soviet Member said that he had no instructions on removing this subject from the restitution paper and that it was still, therefore, his view that a statement of general principle be included in the restitution paper with the understanding that the details would be worked out later.

The U. S. Member, commenting on Mr. Korobochkin's observations, said that it should be noted that paragraph 10 in FEC-011/12 (and FEC-011/32) did not itself constitute a policy decision, since by its very nature it could not be implemented by General MacArthur. Competence of the FEC was limited to the formulation of policies which the SCAP can himself implement. Paragraph 10 was merely a recommendation to the countries looted by Japan that they act in a specific manner with respect to looted property found in their territories. General MacArthur had no authority inside the territories of other countries than Japan. Any proposal, therefore, which concerned the salvaging, repairing and refitting of ships outside Japan would have to stand on its own feet as a full-fledged policy decision. In other words, it would have to be a policy decision that General MacArthur can reasonably be expected to implement.

The U. S. Member also commented on Mr. Korobochkin's remarks concerning Japanese resources available for paying these costs. He pointed out that while a favorable Japanese trade balance did not seem a reasonable probability in the immediate future, any balance that might occur, together with such items as current production of gold, etc., must also be considered in connection with the very important item of occupation costs. He pointed out that occupation costs had been accumulating since 1945. To date the U. S. Government had been supplying the funds to cover these costs. The Commission had generally agreed that the Japanese should stand the costs of the occupation and any available capital resources which the Japanese are likely to have in the near future would have to be considered in connection with occupation costs.

There was no further discussion of this item.

The U. S. Member said he had one final comment of a general nature to make concerning the paper under consideration. He pointed out that the Supreme Commander had had a restitution policy in the field since 18 July 1946, namely FEC-011/12. The present efforts to revise that policy had been in progress since October of that year. Should the FEC be unable to adopt a revised policy within a reasonable time, the Supreme Commander would find himself in the position of having to go forward with final implementation of the policy already before him.

The Subcommittee requested the Secretary to prepare a detailed summary of the discussion at this meeting together with a brief summary of the tentative conclusions arrived at. These will be circulated informally to the members of the Subcommittee who would meet again in the near future for the purpose of preparing a report for the Commission. It was agreed that the Chairman, Mr. Graves, would request at the next meeting of the Commission on 11 September that the Subcommittee be given another week to complete its work.

The meeting adjourned at 1:30 p.m.

Time of next meeting to be arranged by the Secretary.

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3rd Meeting - 9 September 1947

FEC-RESTRICTEDSUMMARY OF DISCUSSION AT THIRD MEETING OF AD HOC
SUBCOMMITTEE ON RESTITUTION OF LOOTED PROPERTY (FEC-011/32)

(Time of Meeting: 9 September 1947 at 3 p.m.)

ATTENDANCE:

United Kingdom	Mr. Graves (chairman), Mr. Thresher
China	Dr. Tan, Dr. A. Koo
USSR	Admiral Ramishvili, Mr. Korobochkin
United States	Mr. Barnett, Mr. B. Smith
Secretary	Mr. Eichler

The Chairman, Mr. Graves, suggested that the six proposed amendments to FEC-011/32 be discussed one at a time beginning with those on which there appeared to be the widest area of agreement.

ITEM 1 - Amendment to Paragraph 14.

The Chinese Member at the first meeting of the Subcommittee had proposed extending the period for filing claims mentioned in paragraph 14 from 8 months to 12 months.

The U. S. Member recalled that the original U. S. proposal was for a 6 months period. As a result of Committee discussions the U. S. Government had agreed to an extension of this period to 8 months. While it was reluctant to extend the period further it would agree to do so provided reasonable compromise was possible on some of the other proposed Chinese amendments. The U. K. Member said that while his Government preferred 8 months it would also agree to 12 months if this would facilitate early passage of the paper. The Soviet Member had no comment but was not opposed to the amendment.

ITEM 2 - Amendment to First Sentence of Paragraph 2

The Chinese Member at the first meeting of the Subcommittee had proposed the following amendment to the first sentence of paragraph 8:

~~After full opportunities have been given for inspection of objects known to have been looted~~ After twelve months from the issuance of a directive to SCAP giving effect to this policy decision, SCAP should be authorized to liquidate, etc.

The Subcommittee, after discussing the Chinese proposal at the 2nd meeting of the Committee, suggested the following compromise:

After full opportunities have been given, in accordance with the provision of para. 14, to inspect and claim for inspection-of objects known to have been looted, etc.

The U. S. Member said that it was the view of his Government that the wording of this first sentence in FEC-011/32 gave ample protection to the interests of the looted countries. Furthermore he pointed out that paragraphs 7 and 14 provided additional protection. However, if a compromise could be expected on other Chinese proposals his Government could agree to the Subcommittee's version.

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The Chinese Member said that he was not wholly satisfied with the Subcommittee's compromise version (above) and suggested the following wording:

After full opportunities have been given, following the filing of claims as provided for in paragraph 14, to inspect and claim objects known to have been looted, etc.

He pointed out that this version tied in the idea of "full opportunities" to inspect and claim more closely with paragraph 14.

The U. S. Member said the new Chinese wording would not be acceptable to his Government because it authorized a 12-months delay in the operation of paragraph 8.

The U. K. Member then suggested the following as an alternative:

After full opportunities have been given, and having regard for the provisions of paragraph 14, to inspect and claim objects known to have been looted, etc.

The Chinese Member, while preferring his earlier versions, said he could give his personal support to the U. K. Member's version. The U. S. Member said that the U. K. version would also be acceptable to his Government. The Soviet Member had no comments but was not opposed to the amendment.

ITEM 3 - Drafting Changes to Last Two Sentences of Paragraph 8

The Subcommittee agreed to adopt a drafting proposal by the Chinese Member amending the last two sentences of paragraph 8 as follows:

The secured fund should finally be distributed among the countries herein specified in accordance with the percentages mentioned above, payable in U. S. dollars, or, at the discretion of SCAP, in foreign exchange acceptable to the recipient countries concerned. Such distribution should be effected not later than 1 January 1950.

The Subcommittee agreed that the Chinese redraft above did not alter the substance of the last two sentences of paragraph 8 as contained in FEC-011/32. It was the view of the Subcommittee that the redraft constituted a simplification of the language of the original. The Chinese Member said that his support of this redraft was not such as to prejudice any later views he might care to express concerning the date in the last sentence.

ITEM 4 - Immediate Distribution of Proceeds from Unidentified Looted Property

The Chinese Member at the first meeting of the Subcommittee had proposed an amendment to paragraph 8 providing for distribution of the proceeds from the liquidation of unidentified looted property immediately upon liquidation. This would require abandonment of the idea of using unidentified looted property as collateral for a "secured fund" for imports into Japan of raw materials for self-liquidating manufacturing projects.

The U. S. Member said that his Government was strenuously opposed to any change in paragraph 8 which would prevent the use of the proceeds from the liquidation of unidentified looted property in a revolving fund for Japanese imports. The position of the U. S. Government, he said, was that the concept of the

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revolving fund in paragraph 8 was an equitable one for all concerned for the following reasons; (1) It granted looted countries an equity in unidentified looted property. The U. S. Member pointed out that it was not a self evident principle that looted countries should receive an equity in property which they were unable to identify, but his Government had been willing to concede this point to the looted countries in recognition of the losses which they had suffered at the hands of the Japanese. (2) The use of unidentified looted property as collateral for a revolving fund for Japanese imports seemed to the U. S. Government a realistic approach to the problem of rehabilitating the Japanese economy. The U. S. Member pointed out that the countries on the FEC were in general agreement that it would be necessary to create a viable economy for the Japanese and had apparently recognized the usefulness of the "revolving fund" project to this end at the time the paper was forwarded to the Steering Committee. At that time a majority of countries had expressed their approval of paragraph 8.

The U. S. Member further observed that the revision of FEC-011/12, the original FEC policy decision on restitution, had been begun nearly a year ago. At that time the U. S. delegation had made quite clear that its Government was satisfied with FEC-011/12, and that its participation in the redrafting of that paper had been motivated by a desire to give full considerations to the views of the looted countries. The U. S. Government had been willing during the past year to consider a substantial liberalization of the standards of identification and an expansion of the categories of looted property, as well as numerous other minor changes. The result of these changes would be a more valuable restitution program for the looted countries than that originally agreed to by those countries in FEC-011/12. In the circumstances the U. S. Government did not feel that the proposal in paragraph 8 was in any way an unreasonable one.

The U. K. Member said that his Government preferred the original paragraph 8 to the proposed Chinese amendment. It was the view of his Government, he said, that unidentified looted property should be dealt with on as realistic a basis as possible. His Government would, therefore, not oppose the use of such property for the purpose of rehabilitating in some degree the Japanese economy.

The Chinese Member said that it was the position of his Government that the use of unidentified looted property in the manner prescribed by paragraph 8 discriminated against the looted countries in favor of the Japanese. His Government was of the opinion that the degree to which looting was carried on by the Japanese during the years of their aggressive policy in the Far East was not fully appreciated by the countries which were not looted. It was felt that those who had suffered from looting during the Japanese occupation should be given the earliest possible opportunity to recoup their losses.

The Soviet Member said that although he was without formal instructions on the Chinese proposal, he would be able to give it his informal support.

There was no further discussion of this item.

ITEM 5 - 60% Share of Unidentified Looted Property for China

At the first meeting of the Subcommittee the Chinese Member proposed giving special consideration to China in the distribution of the proceeds from liquidation of unidentified looted

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3rd Meeting - 9 September 1947

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property. The Chinese proposal was that China, by reason of the extraordinary looting of her country by the Japanese, should receive not less than 60% of the proceeds from the liquidation of unidentified looted property.

In support of his Government's proposal, the Chinese Member said that few countries realized how thoroughly systematic the Japanese were in looting China. To every Japanese military unit was attached a special group for the express purpose of handling loot. This group was usually divided into 4 or 5 sub-groups. The first of these would be responsible for seeking out and seizing gold, silver, precious stones, etc. The second group would be responsible for seeking out and seizing cultural objects of the highest value. A third group would be responsible for seizing valuable manufactured goods and machinery. A fourth group would concern itself with such minor goods as wearing apparel. A fifth group would give its attention to the systematic looting of minor household items, etc. In this way the Japanese systematically looted virtually every square mile of territory in which their armies operated. Recent reports from his Government indicated that large quantities of looted materials cannot be found or identified, and for this reason it was felt that a large share for China in the proceeds from the sale of unidentified looted property was a reasonable request.

The U. S. Member said that he was not inclined to favor the Chinese proposal since it would require negotiation among the seven looted countries of percentage shares for restitution. Experience in dealing with the reparations problem indicated that negotiation of percentage shares was an extremely complex and time-consuming operation. It was felt that if negotiation had to take place on restitution shares it would be a very long time indeed before a final restitution policy could be implemented. The U. S. Member said, however, that if the seven looted countries could agree quickly and easily that pro-rating in accordance with reparations shares was inequitable and that they desired to negotiate separate restitution percentages he was confident that the U. S. Government would not object to such a procedure. In this event, he said, it might be possible to substitute in paragraph 8 for the phrase "in accordance with the percentages mentioned above" (namely "recognized national reparations percentage shares") some such phrase as "such percentages as the looted countries may decide in due course among themselves".

The U. K. Member said that his Government preferred the retention of the present wording of paragraph 8 on this point, namely that ultimate distribution of the secured fund should be in accordance with recognized national reparations percentage shares.

The Soviet Member said that he would probably be able to support the Chinese proposal if the seven looted countries favored it.

There was no further discussion of this item.

ITEM 6 - Salvaging, Repairing and Refitting Looted Ships Found in Non-Japanese Waters

The Soviet Member, supported by the Chinese Member, proposed the following amendment to paragraph 10:

The cost of the necessary work of salvaging, repairing and refitting of ships in the cases where they were sunk or damaged should be borne by the Japanese Government.

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The U. S. Member said that there were two questions he would like to discuss in connection with this proposed amendment: (1) is it practically feasible to adopt a policy requiring the Japanese to pay the costs of salvaging, repairing and refitting ships found in non-Japanese waters? (2) Even if feasible, has such a policy any place in a restitution paper? The U. S. Member said that the "costs" referred to in the Soviet proposal could not possibly have been yen costs since it would be manifestly impracticable to suppose the Japanese would be able to carry on salvaging, repairing and refitting operations in waters outside Japan. The costs referred to must, therefore, be local costs in the area in which the operations would take place. That is to say, the salvaging, repairing and refitting of ships sunk in the harbors of Shanghai and Hongkong would constitute, under the Soviet proposal, a charge against the Japanese economy. In the circumstances, he pointed out, this would mean simply a charge against the U. S. Government since the U. S. Government is at the present time meeting the deficit in the Japanese trading account from its own treasury. The U. S. Government could obviously not accept a proposal that it pay the costs of salvaging, repairing and refitting ships looted by the Japanese and found in non-Japanese waters.

The U. S. Member further pointed out that the salvaging, repairing and refitting of ships found in Japanese waters was not strictly a restitution matter, but since it involved repair of damage done was more appropriately a reparations matter. For this reason, he said, it would be better procedure to remove this subject from the restitution paper and treat it separately as a reparations problem. The U. S. Government recognized that the recovery of damaged shipping could be a valuable asset in the rehabilitation of the Far East and the countries concerned could count on sympathetic consideration by the U. S. Government of any program drawn up by the FEC that would approach this problem as a reparations problem and which would be consistent with the other reparations policies of the Commission.

The Chinese Member said that while his Government would prefer inclusion in the restitution paper of some statement of the principle contained in the proposed Soviet amendment, they would not object to treating this problem in a separate paper.

The U. K. Member said that his Government would welcome separation of this problem from the restitution paper.

Mr. Korobochkin, speaking for the Soviet delegation, said that his Government's position was that the policy on property looted by the Japanese should deal with looted property wherever it might be found. He suggested that it was not wholly accidental that members found it necessary to include paragraph 10 in the original restitution policy. This paragraph, he pointed out, dealt specifically with looted property found outside Japan. Mr. Korobochkin said he would like to point out to the U. S. Member that the intention of the Soviet amendment was expressly to require that the Japanese themselves bear the costs in connection with restoring all looted ships found outside Japan. There was no intention that the U. S. Government should pay these costs. Commenting on the resources from which Japan could possibly pay these costs, Mr. Korobochkin said that the Japanese could use any one or a combination of the following methods:

- (1) Current production of gold.
- (2) Proceeds from its export surplus.

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- (3) Special arrangements for payment with the countries concerned.

The Soviet Member said that he had no instructions on removing this subject from the restitution paper and that it was still, therefore, his view that a statement of general principle be included in the restitution paper with the understanding that the details would be worked out later.

The U. S. Member, commenting on Mr. Korobochkin's observations, said that it should be noted that paragraph 10 in FEC-011/12 (and FEC-011/32) did not itself constitute a policy decision, since by its very nature it could not be implemented by General MacArthur. Competence of the FEC was limited to the formulation of policies which the SCAP can himself implement. Paragraph 10 was merely a recommendation to the countries looted by Japan that they act in a specific manner with respect to looted property found in their territories. General MacArthur had no authority inside the territories of other countries than Japan. Any proposal, therefore, which concerned the salvaging, repairing and refitting of ships outside Japan would have to stand on its own feet as a full-fledged policy decision. In other words, it would have to be a policy decision that General MacArthur can reasonably be expected to implement.

The U. S. Member also commented on Mr. Korobochkin's remarks concerning Japanese resources available for paying these costs. He pointed out that while a favorable Japanese trade balance did not seem a reasonable probability in the immediate future, any balance that might occur, together with such items as current production of gold, etc., must also be considered in connection with the very important item of occupation costs. He pointed out that occupation costs had been accumulating since 1945. To date the U. S. Government had been supplying the funds to cover these costs. The Commission had generally agreed that the Japanese should stand the costs of the occupation and any available capital resources which the Japanese are likely to have in the near future would have to be considered in connection with occupation costs.

There was no further discussion of this item.

The U. S. Member said he had one final comment of a general nature to make concerning the paper under consideration. He pointed out that the Supreme Commander had had a restitution policy in the field since 18 July 1946, namely FEC-011/12. The present efforts to revise that policy had been in progress since October of that year. Should the FEC be unable to adopt a revised policy within a reasonable time, the Supreme Commander would find himself in the position of having to go forward with final implementation of the policy already before him.

The Subcommittee requested the Secretary to prepare a detailed summary of the discussion at this meeting together with a brief summary of the tentative conclusions arrived at. These will be circulated informally to the members of the Subcommittee who would meet again in the near future for the purpose of preparing a report for the Commission. It was agreed that the Chairman, Mr. Graves, would request at the next meeting of the Commission on 11 September that the Subcommittee be given another week to complete its work.

The meeting adjourned at 1:30 p.m.

Time of next meeting to be arranged by the Secretary.

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3rd Meeting - 9 September 1947

1st & 2nd Meetings

Eichler

PROPOSALS FOR AMENDING FEC-011/32,
RESTITUTION OF LOOTED PROPERTY

(Meetings held: 21 August, 26 August 1947)

Attendance:

United Kingdom	Mr. Everson, Chairman
	Mr. Thresher
China	Dr. Tan
	Dr. A. Koo
USSR	Admiral Ramishvili
	Mr. Korobochkin
	Mr. Koulakov
United States	Mr. Dickover
Secretary	Mr. Eichler

The Chinese Member made the following proposals for amending FEC-011/32:

1. The Chinese Member proposed that the first sentence of para 8 be amended to include a specific period of time rather than the mere reference to "full opportunities" in the original paper. The Chinese Government felt that if a time period were not made explicit here, sufficient time might not be allowed all persons looted by the Japanese to file claims with their respective governments and have them acted upon before the property in question would be considered "unidentified" and disposed of accordingly. The Chinese Government believes that the specific period should be at the very least 12 months, and while even this was felt by them to be barely adequate considering the administrative complexities of the looted property problem they were, nevertheless, willing to compromise on a 12 months period.

The Chinese Member accordingly proposed the following amendment to sentence one of para 8:

8. After full opportunities have been given for inspection of objects known to have been looted after twelve months from the issuance of a directive to SCAP giving effect to this policy decision, SCAP should be authorized to liquidate, etc.

The Subcommittee, after discussing the Chinese proposal, suggested the following compromise, the US Member reserving his position:

After full opportunities have been given, in accordance with the provision of para 14, to inspect and claim for inspection of objects known to have been looted, etc., (remainder of para. 8 the same as in FEC-011/32).

A parallel change in para 14 was also suggested (see item 5 below).

2. The Chinese Member also said his Government felt that para 8 should be amended to permit distribution of the proceeds from the liquidation of unidentified looted property immediately upon liquidation. This would, of course, preclude the possibility of using these proceeds in a revolving fund.

There was no agreement on this proposal.

3. The Chinese Member said his Government objected to the provision in para 8 for ultimate distribution of the secured fund in accordance

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with reparations percentage shares. It was felt that such a criterion of distribution would be unfair to China in that China had suffered from looting to a greater degree than any other occupied country. The Chinese Member said that his Government would suggest that special consideration be given to China in the distribution of the secured fund and that an appropriate share of this fund for China would be 60 per cent.

There was no agreement on this proposal.

4. The Chinese and Soviet Members proposed that the same treatment be accorded ships sunk or damaged outside of Japanese waters as that accorded ships sunk or damaged within Japanese waters. In other words, the Chinese and Soviet Members feel that the Japanese should be required to salvage, repair and refit all ships looted by them and sunk or damaged in any Far Eastern waters.

The Chinese Member informed the Subcommittee that at least 35 Chinese ships were known to have been sunk in waters outside Japan and of these 9 were in Korean waters. The names and locations of these 9 are known to the Chinese Government.

The Soviet Member said that his Government could name 3 looted Russian ships that had been sunk or damaged in waters outside Japan but that there were probably more ships than these 3 involved.

The Chinese Member proposed that some provision for salvaging, repairing and refitting such ships should be made in para 10 of FEC-011/12.

The US Member suggested that this issue might be separated from the restitution paper and treated as a separate problem.

There was no agreement on this proposal.

5. The Chinese Member proposed extending the period for filing claims in para 14 of FEC-011/32 from 8 months to 12 months. All members agreed to this except the US Member whose position was reserved.

6. The Chinese Member proposed drafting changes to the last two sentences of para 8. His Government felt that the use of the word "claims" and the phrase "permanent and inviolable lien" in the penultimate sentence might be subject to a variety of interpretations and might, therefore, be misunderstood in a practical application. The Chinese Member accordingly suggested a common-sense rewording of these two sentences along the following lines:

The secured fund should finally be distributed among the countries herein specified in accordance with the percentages mentioned above, payable in US dollars, or, at the discretion of SCAP, in foreign exchange acceptable to the recipient countries concerned. Such distribution should be affected not later than 1 January 1950.

The percentages referred to in the amended version above would be those decided upon in connection with the proposed Chinese amendment in item 3 above.

It was further agreed to circulate these proposals informally to subcommittee members for their further consideration and to hold another meeting of the Subcommittee as soon as the US Member has obtained the views of his Government on the six proposals listed above.

PROPOSALS FOR AMENDING FEC-011/32,
RESOLUTION OF LOOTED PROPERTY

(Meetings held: 21 August, 26 August 1947)

Attendance:

United Kingdom	Mr. Everson, Chairman
	Mr. Thresher
China	Dr. Tan
	Dr. A. Koo
USSR	Admiral Ruzhickii
	Mr. Korobochkin
	Mr. Koulikov
United States	Mr. Dickover
Secretary	Mr. Eichler

The Chinese Member made the following proposals for amending FEC-011/32:

1. The Chinese Member proposed that the first sentence of para 8 be amended to include a specific period of time rather than the mere reference to "full opportunities" in the original paper. The Chinese Government felt that if a time period were not made explicit here, sufficient time might not be allowed all persons looted by the Japanese to file claims with their respective governments and have them acted upon before the property in question would be considered "unidentified" and disposed of accordingly. The Chinese Government believes that the specific period should be at the very least 12 months, and while even this was felt by them to be barely adequate considering the administrative complexities of the looted property problem they were, nevertheless, willing to compromise on a 12 months period.

The Chinese Member accordingly proposed the following amendment to sentence one of para 8:

8. After full opportunities have been given for inspection of objects known to have been looted after twelve months from the issuance of a directive to SCAP giving effect to this policy decision, SCAP should be authorized to liquidate, etc.

The Subcommittee, after discussing the Chinese proposal, suggested the following compromise, the US Member reserving his position:

After full opportunities have been given, in accordance with the provision of para 14, to inspect and claim for inspection of objects known to have been looted, etc., (remainder of para. 8 the same as in FEC-011/32).

A parallel change in para 14 was also suggested (see item 5 below).

2. The Chinese Member also said his Government felt that para 8 should be amended to permit distribution of the proceeds from the liquidation of unidentified looted property immediately upon liquidation. This would, of course, preclude the possibility of using these proceeds in a revolving fund.

There was no agreement on this proposal.

3. The Chinese Member said his Government objected to the provision in para 8 for ultimate distribution of the secured fund in accordance

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NO agreement

NO

during

- follow the filing of claims as provided per in #14

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with reparations percentage shares. It was felt that such a criterion of distribution would be unfair to China in that China had suffered from looting to a greater degree than any other occupied country. The Chinese Member said that his Government would suggest that special consideration be given to China in the distribution of the secured fund and that an appropriate share of this fund for China would be 60 per cent.

There was no agreement on this proposal.

4. The Chinese and Soviet Members proposed that the same treatment be accorded ships sunk or damaged outside of Japanese waters as that accorded ships sunk or damaged within Japanese waters. In other words, the Chinese and Soviet Members feel that the Japanese should be required to salvage, repair and refit all ships looted by them and sunk or damaged in any Far Eastern waters.

The Chinese Member informed the Subcommittee that at least 35 Chinese ships were known to have been sunk in waters outside Japan and of these 9 were in Korean waters. The names and locations of these 9 are known to the Chinese Government.

The Soviet Member said that his Government could name 3 looted Russian ships that had been sunk or damaged in waters outside Japan but that there were probably more ships than these 3 involved.

The Chinese Member proposed that some provision for salvaging, repairing and refitting such ships should be made in para 10 of FEC-111/12.

The US Member suggested that this issue might be separated from the restitution paper and treated as a separate problem.

There was no agreement on this proposal.

5. The Chinese Member proposed extending the period for filing claims in para 14 of FEC-111/12 from 8 months to 12 months. All members agreed to this except the US Member whose position was reserved.

6. The Chinese Member proposed drafting changes to the last two sentences of para 8. His Government felt that the use of the word "claims" and the phrase "permanent and inviolable lien" in the penultimate sentence might be subject to a variety of interpretations and might, therefore, be misunderstood in a practical application. The Chinese Member accordingly suggested a ~~correction~~ ^{rewording} of these two sentences along the following lines:

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The secured fund should finally be distributed among the countries herein specified in accordance with the percentages mentioned above, payable in US dollars, or, at the discretion of SCAP, in foreign exchange acceptable to the recipient countries concerned. Such distribution should be affected not later than 1 January 1950.

The percentages referred to in the amended version above would be those decided upon in connection with the proposed Chinese amendment in item 3 above.

It was agreed to circulate these proposals informally to subcommittee members for their further consideration and to hold another meeting of the Subcommittee as soon as the US Member has obtained the views of his Government on the six proposals listed above.

PROPOSALS MADE AT SUBCOMMITTEE MEETING ON
RESTITUTION OF LOOTED PROPERTY, FEC-011/32

Meeting held at 10:30 a.m. 21 August 1947

Attendances:

United Kingdom	Mr. Everson, Chairman
	Mr. Thresher
China	Dr. Tan
	Dr. A. Koo
USSR	Admiral Ramishvili
	Mr. Koreboehkin
	Mr. Koulakov
United States	Mr. Dickover
Secretary	Mr. Eichler

The Chinese Member made the following proposals for amending FEC-011/32:

1. ~~The first sentence of para. 8 to be amended as follows:~~

~~8. After full opportunities have been given for inspection of objects known to have been looted After twelve months from the issuance of a directive to SCAP giving effect to this policy decision, SCAP should be authorized to liquidate, etc.~~

suggested The Subcommittee, after discussing the Chinese proposal, suggested the following compromise, the U.S. member reserving his position:

After full opportunities have been given, in accordance with the provision of para 14, to inspect and claim for ~~inspection of~~ objects known to have been looted, etc., (remainder of para. 8 the same as in FEC-011/32).

2. The Chinese Member also said his Government felt that para. 8 should be amended to permit distribution of the proceeds from the liquidation of unidentified looted property immediately upon liquidation. This would, of course, preclude the possibility of using these proceeds in a revolving fund.

There was no agreement on this proposal.

3. The Chinese Member said his Government objected to the provision in para. 8 for ultimate distribution of the secured fund in accordance with reparations percentage shares. It was felt that such a criterion of distribution would be unfair to China in that China had suffered from looting to a greater degree than any other occupied country. The Chinese Member said that his Government would suggest that special consideration be given to China in the distribution of the secured fund and that an appropriate share of this fund for China would be 60 per cent.

There was no agreement on this proposal.

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4. The Chinese and Soviet Members proposed that the same treatment be accorded ships sunk or damaged outside of Japanese waters as that accorded ships sunk or damaged within Japanese waters. In other words, the Chinese and Soviet Members feel that the Japanese should be required to salvage, repair and refit all ships looted by them and sunk or damaged in any Far Eastern waters.

The Chinese Member informed the Subcommittee that at least 35 Chinese ships were known to have been sunk in waters outside Japan and of these 9 were in Korean waters. The names and locations of these 9 are known to the Chinese Government.

The Soviet Member said that his Government could name 3 looted Russian ships that had been sunk or damaged in waters outside Japan but that there were probably more ships than these 3 involved.

The Chinese Member proposed that some provision for salvaging, repairing and refitting such ships should be made in para. 10 of FEC-011/12.

The U.S. Member suggested that this issue might be separated from the restitution paper and treated as a separate problem.

There was no agreement on this proposal.

5. The Chinese Member proposed extending the period for filing claims in para. 14 of FEC-011/32 from 8 months to 12 months. All members agreed to this except the U.S. Member whose position was reserved.

6. It was agreed to circulate these proposals informally to subcommittee members for their further consideration and to hold ~~and~~ meeting of the subcommittee on ~~Tuesday, 26 August 1947 at 10:30 a.m., or, should the Steering Committee meet on that date, at a later time to be arranged by the Secretary.~~

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MINUTES--FECFEC--RESTRICTEDMINUTES--70th FEC Mtg.14 August 1947FAR EASTERN COMMISSION

Minutes of the Seventieth Meeting of the Far Eastern Commission
Held in the Main Conference Room, 2516 Massachusetts Ave., N.W.,
Washington, D. C.
14 August 1947 - 10:30 A.M.

Representatives Present

Mr. C. E. Saltzman (United States) Chairman pro tempore
Mr. A. S. Stirling (Australia)
Mr. T. A. Stone (Canada)
His Excellency Dr. V. K. Wellington Koo (China)
Mr. Francis Lacoste (France)
Mr. B. R. Sen (India)
Dr. R. H. van Gulik (Netherlands)
His Excellency Sir Carl Berendsen (New Zealand)
Mr. F. C. Rodriguez (Philippines)
Rear Admiral S. S. Ramishvili (U.S.S.R.)
Mr. F. C. Everson (United Kingdom)

Acting Secretary General

Mr. Samuel S. Stratton

MINUTES--70th FEC Mtg.

SUMMARY--FECFEC--RESTRICTEDFAR EASTERN COMMISSIONSUMMARY OF MINUTES OF 70th MEETINGITEM 1 - APPROVAL OF THE MINUTES OF THE SIXTY-NINTH MEETING

Amended and approved.

ITEM 2 - REDUCTION OF JAPANESE INDUSTRIAL WAR POTENTIAL (FEC-084/20, -084/19; -084 series)

Amendment of date from "1 January 1949" to "1 October 1949" approved. Policy decision approved with statements of interpretation presented by Philippine and Chinese Representatives, and with the understanding that the Chinese statement would be forwarded to the Supreme Commander together with the directive based on the paper.

ITEM 3 - REPRESENTATION OF JAPAN AT INTERNATIONAL CONFERENCES (FEC-236/3; 236 series, 240 series)

Sir Carl Berondsen stated that when action on FEC-236/3 should appear to be imminent he would inquire as to support for the New Zealand view that Japanese nationals should not be permitted to attend inter-governmental conferences without prior approval by the Commission of each proposal for such attendance. Further consideration postponed.

ITEM 4 - INTERCHANGE OF PERSONS BETWEEN JAPAN AND OTHER COUNTRIES (FEC-240/4, FEC-240/5; -240 series, 236 series)

Additional paragraph proposed by U.S. in FEC-240/5, providing that no country need receive Japanese without its consent, was accepted. Further consideration postponed.

ITEM 5 - TRADE REPRESENTATIVES IN JAPAN (FEC-088/9; FEC-088/2, FEC-088 series)

Further consideration postponed.

ITEM 6 - REOPENING OF PRIVATE TRADE WITH JAPAN (FEC-228/6; 228 series)

Chinese reservation withdrawn. Further consideration postponed.

ITEM 7 - RESTITUTION OF LOOTED PROPERTY (FEC-011/32; FEC-011/12, FEC-011 series)

Referred to ad hoc subcommittee of the Commission consisting of U.K., Soviet, Chinese, and U.S. for consideration of section on shipping and with instructions to report at next FEC meeting.

ITEM 8 - JAPANESE WHALING (FEC-231/4; -231 series, FEC-035, -035/1)

Postponed.

ITEM 9 - ADVANCE TRANSFERS OF JAPANESE REPARATIONS (FEC-201/1)

Postponed.

ITEM 10 - THE WORK OF THE COMMISSION (FEC-105/2, SC-049/2)

Postponed.

ITEM 11 - OTHER BUSINESSa. Time of next meeting

Agreed that next meeting of Commission should take place on 28 August unless urgent business should necessitate a special meeting

ITEM 12 - PRESS RELEASE

Text of policy decision on reduction of Japanese Industrial War Potential to be released to the press in the normal course.

Summary--Minutes, 70th FEC Mtg

FEC--RESTRICTED

In the necessary absence of the Chairman, MR. STRATTON, Acting Secretary General, opened the meeting and requested nominations for Chairman pro tempore.

MR. EVERSON moved and MR. LACOSTE seconded the motion that Mr. Saltzman serve as Chairman pro tempore. The motion was carried unanimously and MR. SALTZMAN assumed the Chair.

ITEM 1 - APPROVAL OF THE MINUTES OF THE SIXTY-NINTH MEETING

DR. KOO requested that the last sentence in the first paragraph under Item 3 on page 1 of the minutes of the 69th meeting be amended to read:

"With such an amendment in paragraph 9 b,
DR. KOO concluded, he would be in a position to give support to the proposal."

SIR CARL BERENDSEN requested that the third sentence from the end of his remarks on page 6 of the minutes of the 69th FEC meeting be amended to read:

"The New Zealand Government did agree that in specific cases it might be advisable for Japanese to attend non-governmental conferences, and the original New Zealand paper had provided for such attendance with prior approval by the Commission in each case."

ITEM 2 - REDUCTION OF JAPANESE INDUSTRIAL WAR POTENTIAL (FEC-084/20, -084/19; -084 series)

DR. KOO referred to the motion made by General McCoy at the last meeting of the Commission (page 1, minutes of 69th meeting of the FEC) to amend the date 1 January 1949 to 1 October 1949 throughout paragraph 9 b of FEC-084/19. He said that if this amendment were adopted he could support the adoption of the policy decision.

SIR CARL BERENDSEN said that the adoption of FEC-084/19 had been delayed by the inability of the four powers possessed of the veto to reach agreement. The very difficult question of the extent to which the Japanese should be allowed to maintain industrial war potential was involved, and the paper had been drafted, he thought, with the object of enabling the United States Government, as the authority best qualified to judge the situation in Japan, to permit possible future increases in this potential without the necessity of further action on the part of the Commission. The New Zealand view had been in agreement with the Chinese view that no terminal date should be included in any policy decision. However, with the alteration in the date from 1 January 1949 to 1 October 1949 SIR CARL BERENDSEN would be prepared to support the proposal.

MR. RODRIGUEZ said that the Philippine position had been opposed to the inclusion of a termination date for the provisions limiting the Japanese industrial level. For the sake of facilitating agreement, however, he had been prepared to accept FEC-084/19 with the inclusion of the date 1 January 1949 and would also be prepared to accept the paper with the amendment in date, which he considered an improvement.

MR. RODRIGUEZ said that it was the understanding of the Philippine Government that any termination of the limitations on industrial levels did not in any way prejudice the reparations program. It was likely, he thought, that by 1949 the program of reparations removals would not have been completed, and if at that time limitations on levels of industry should be terminated, the increase to be granted should not be taken out of equipment designated for reparations.

FEC--RESTRICTED

MR. LACOSTE said that it was the French position as indicated on previous occasions, that no termination date should be included in the proposed policy decision. Any date was regarded as arbitrary by his Government since it was not possible at present to foresee the best time for alteration in the regime of control. However, in view of the urgent necessity for passage of the policy decision involved he would not oppose adoption of the paper.

MR. LACOSTE asked whether Representatives would support the following editorial changes in the first two sentences of paragraph 9 b of FEC-084/19:

~~"The capacity levels remaining in the iron and steel, light metals, metal-working machinery, ship-building, oil refining and storage, synthetic oil and synthetic rubber industries, after the completion of the industrial removals proposed in this paper and after the disposition of remaining 'excess' facilities as provided for under paragraph 6, should constitute the permissible maxima in these industries, until the end-of-the-present-phase-of-the-occupation-of-Japan-or until-1-January-1949,-whichever-is-the-earlier,-pending-a-decision-as-to-the-long-term-disarmament-controls. These maxima should be subject to review by the Far Eastern Commission, and, if the Commission expects still-to-be-charged-on-1-January-1949-with-responsibility-for-post-surrender-policies-respecting-Japan-the-Commission-should-assess-the-situation-before-that-date-with a-view-to~~ Such review should take place before 1 January 1949 and have for its object the adoption of an appropriate policy to be put into effect on 1 January 1949, on which date the provisions herein specified regarding productive capacity maxima in these industries will lapse."

In reply to Mr. Lacoste's query, MR. SEM, DR. VAN GULIK, DR. KOO, and SIR CARL BERENDSEN pointed out that the present wording of paragraph 9 1 represented a compromise which had been worked out through long discussions by Committee No. 2: Economic and Financial Affairs and by the Steering Committee. Although they were in sympathy with Mr. Lacoste's desire to improve the wording of the paper, they urged that, since its intention was clear and since its adoption was a matter of urgency, it be approved in its present form, without further amendments, which would occasion additional delay. MR. LACOSTE accordingly refrained from proposing his amendments formally.

DR. KOO presented the following formal statement regarding the understanding of his Government relative to paragraph 9 b of FEC-084/19. He requested that it be incorporated in the minutes and that it be forwarded to the Supreme Commander together with the directive based on the policy decision:

"I wish to record the understanding of the Chinese Government that the expression 'present phase of occupation', as used in paragraph 9 b of this paper, is identical in meaning with the existing regime of control as provided for in the Terms of Reference of the Far Eastern Commission and the Allied Council for Japan.

"It is also the understanding of the Chinese Government that in the event that reparations removals do not proceed as rapidly as expected or if agreement on long-term disarmament control or

FEC--RESTRICTED

decisions of the FEC on the disposal of residual capacity cannot be reached before October 1, 1949, the implementation of the aforementioned paragraph should be effected in such a manner as will not reduce the reparations pool to be distributed among the recipient countries or affect adversely the reparations share or shares of such country or countries.

"The Chinese Delegation has already recorded its understanding of paragraph 5 b (2) of this paper, which understanding appears in the cover page thereof as follows: 'The meaning of paragraph 5 b (2) would include equipment for manufacturing heavy prime movers, cranes, mining equipment and chemical equipment.' "

THE COMMISSION unanimously approved FEC-084/19 as a policy decision, with the amendment throughout paragraph 9 b of the date 1 January 1949 to 1 October 1949.

ITEM 3 - REPRESENTATION OF JAPAN AT INTERNATIONAL CONFERENCES
(FEC-236/3; 236 series, 240 series)

ADMIRAL RAMISHVILI said that he was not yet prepared to state the final views of his Government on FEC-236/3.

SIR CARL BERENDSEN said that the New Zealand view, as originally embodied in FEC-236 and as reiterated on numerous occasions, was that Japanese nationals should not be permitted to attend inter-governmental conferences without prior approval by the Far Eastern Commission of each proposal for such attendance. He did not desire discussion of this position at the present time, but stated that he would, when action on the proposal should appear to be imminent, inquire as to what support there might be for the New Zealand position.

MR. STIRLING expressed support for the New Zealand position.

MR. SEN said that he considered that prior approval of proposals for Japanese nationals to attend inter-governmental conferences would involve the Far Eastern Commission in matters of implementation, and would therefore be contrary to the Terms of Reference of the Commission, which provided that it should lay down broad general policy.

THE COMMISSION unanimously agreed to postpone further consideration of FEC-236/3.

ITEM 4 - INTERCHANGE OF PERSONS BETWEEN JAPAN AND OTHER COUNTRIES
(FEC-240/4, FEC-240/5; -240 series, 236 series)

MR. RODRIGUEZ said that the Philippine position on FEC-240/4 was still reserved in the absence of final instructions from his Government.

MR. SALTZMAN invited attention to FEC-240/5, an amendment proposed by his Government for insertion in the proposed policy decision after paragraph 5. This amendment was by general consensus regarded as acceptable and was incorporated in the paper (see FEC-240/6, subsequently circulated) with the understanding that the Soviet reservation, which was maintained on FEC-240/4, would extend to the new additional paragraph as well.

THE COMMISSION unanimously agreed to postpone further consideration of this subject.

FEC--RESTRICTED

ITEM 5 - TRADE REPRESENTATIVES IN JAPAN (FEC-088/9; FEC-088/2,
FEC-088 series)

ADMIRAL RAMISHVILI said that the Soviet position in opposition to FEC-088/9 remained unchanged.

THE COMMISSION unanimously agreed to postpone further consideration of FEC-088/9.

ITEM 6 - REOPENING OF PRIVATE TRADE WITH JAPAN (FEC-228/6; 228 series)

DR. KOO formally withdrew the Chinese reservation on FEC-228/6 and expressed support for the proposal.

THE COMMISSION unanimously agreed to postpone further consideration of FEC-228/6.

ITEM 7 - RESTITUTION OF LOOTED PROPERTY (FEC-011/32; FEC-011/12,
FEC-011 series)

MR. SALTZMAN asked whether the adoption of FEC-011/32 would be facilitated by removing those portions of the paper dealing with shipping for consideration as a separate proposal.

ADMIRAL RAMISHVILI said that although his objections to the paper were based mainly on the absence of the amendment with regard to ships which he had proposed at the Steering Committee on 29 July, he was nevertheless awaiting general final instructions on the whole paper.

DR. KOO said that the Chinese position was reserved in the absence of final instructions. He suggested that the paper be referred to an ad hoc subcommittee of the Commission for consideration during the time that final instructions were awaited. He thought that such subcommittee consideration of points of difference involved might expedite final agreement on the proposal.] ✓

MR. EVERSON pointed out that the only points of difference of which the Commission had been aware had been the amendment presented to the Steering Committee by the Soviet member on 29 July. If other delegations wished to propose specific amendments, he thought such amendments should be circulated in writing. He thought there was no proposal at present to be referred to an ad hoc subcommittee and he could not understand what such a subcommittee was expected to accomplish.

A canvass of Representatives established the consensus that, since consideration by an ad hoc subcommittee would probably not cause additional delay and might hasten adoption of the paper, the Chinese suggestion might be adopted. Accordingly, the Chairman appointed an ad hoc subcommittee consisting of the United Kingdom, Soviet, Chinese, and United States Representatives to consider FEC-011/32 and to present a report at the next meeting of the Far Eastern Commission.

ITEM 8 - JAPANESE WHALING (FEC-231/4, -231 series, FEC-035, -035/1)

THE COMMISSION unanimously agreed to postpone further consideration of FEC-231/4.

FEC--RESTRICTEDITEM 9 - ADVANCE TRANSFERS OF JAPANESE REPARATIONS (FEC-201/1)

THE COMMISSION unanimously agreed to postpone further consideration of FEC-201/1.

ITEM 10 - THE WORK OF THE COMMISSION (FEC-105/2, SC-049/2)

THE COMMISSION unanimously agreed to postpone further consideration of this subject.

ITEM 11 - OTHER BUSINESSa. Time of next meeting

THE COMMISSION unanimously agreed that its next regular meeting should take place on 28 August 1947. It was understood that in the case of any urgent business the Chairman could, in consultation with Representatives, call a special meeting before that date.

ITEM 12 - PRESS RELEASE

THE COMMISSION unanimously agreed that the text of the policy decision on Reduction of Japanese Industrial War Potential (FEC-004/19) should be released to the press in the normal course.

The meeting adjourned at 11:25 A.M.

Eshler

U.S. Representative, FEC

Feb. 6, 1947

General Hilldring

The attached statement for members of the Far Eastern Commission has been prepared in response to inquiries made at the Far Eastern Commission requesting the organization and functions of the reparations, restitution and restoration missions in Japan. The statements contained in the announcement are based on an exchange of cables between Washington and SCAP.

JK:RBSmith:bg

2/6/47

ESP

JA

A-H

To: Members of the FEC

In response to inquiries by members of the FEC, the U. S. Government in consultation with SCAP has prepared the following statement clarifying the composition, functions, and operations of reparations, restitution, and restoration missions in Japan.

I. Composition of missions.

Each country which is a member of the FEC is authorized to have an official reparations, restitution, and restoration mission in Tokyo consisting of five individuals. FEC countries will also be authorized additional technical aides and clerical assistants for the above purposes, not to exceed twenty in number at this time. This numerical limitation is made necessary by present shortages of transportation and accommodations. SCAP will arrange for logistic support for missions which do not have independent facilities in Japan. Dollar credit or currency acceptable to the U. S. must be made available to pay for any support received from U. S. resources. Dependents of members of the missions and their staffs will not be cleared for entry into Japan at this time.

II. Functions of missions.

Only members of official missions and not members of their technical staff will be authorized to deal with SCAP on behalf of their governments on problems of reparations, restitution, and restoration. Specific functions are as follows:

(a) In reparations matters to present official claims for assignment of particular facilities to their country as reparations, inspection of facilities to determine desirability, consultation with SCAP regarding delivery, transportation and other technical matters concerned with receipt of reparations goods.

(b) In restitution matters to present the official claims of their governments for goods looted therefrom, to request that search be made for missing items believed to be in Japan, to accept title to goods on behalf of their governments and to arrange for the transportation of such property from Japan.

(c) In restoration matters to identify and arrange for the protection and preservation of property belonging to nationals of their country which is located in Japan and to present on behalf of their governments any claims for damage or loss to such property.

JK:RBSmith:bg:mrr 2/5/47 2/10/47

Minutes of the Subcommittee Meeting on Restitution
of Looted Property FEC-011/12

16 January 1947 - 2 p.m.

Members present:

U.S.:	Mr. R. W. Barnett (chairman)
	Mr. J. MacDonald
China:	Mr. Burr Smith
	Dr. A. Koo
Netherlands:	Dr. H. M. J. Hart
Philippines:	Mr. C. Coronel
U.K.:	Mr. M. B. Thresher
Secretariat:	Mr. D. K. Eichler

Reactions to the proposed redraft of FEC-011/12 were expressed as follows:

NETHERLANDS

Para 1 -- Would prefer to have revision of this paragraph (embodied in Cl-002/14) acted upon separately and sent up to Steering Committee as soon as possible.

Para 2 and 3 -- No objections.

Para 4 -- Typographical error noted: Line omitted in transposing from original paper, FEC-011/12.

Para 5(b) -- Doubt was expressed on propriety of introducing this element into a paper on restitution. Point not strongly pressed.

risk (The U. S. member explained that the meaning of the phrase "at the ~~request~~ of the recipient country" meant simply that insurance would be taken care of by the recipient country.)

Para 6 and 7 -- No objections.

Para 8 -- Same objections apply here as stated below under para 14, with respect to "disposition as reparations".

Para 9 through 12 -- No objections (would redraft para 12, but retain substance).

Para 13 -- Objection was raised to having the Supreme Commander designate the chairman of the Advisory Body, and of having the Supreme Commander represented on the body at all. Would like to see explicit statement in this paragraph to the effect that voting procedure would not entail the Four-Power veto.

Para 14 -- Objection was raised to the entire objective of this paragraph. It was held that any disposition of property known to have been looted but not identified as to origin or ownership would have no basis in property law. If the property were recognized as having been stolen, appropriation of same by SCAP would be illegal.

(The U. S. member pointed out that the purpose of para 14 was to supply a legal basis for disposition of such property by SCAP, but the Netherlands felt this would be a contravention of existing property law. The U. S. member suggested that these objections might be handled by rephrasing para 8 in some such way as the following:

"Property other than cultural objects known to have been looted but not identified as to origin or ownership, and not within a reasonable time so identified, should be held for disposition as reparations."

The Netherlands member objected to any treatment of looted property under general reparations settlement.)

Para 15 -- The question was raised here as to whether the "assets" mentioned should be confined to "industrial assets". The Netherlands member would prefer to treat this paragraph along the lines of the "Gold Pot" principle.

PHILIPPINES

Para 1 and 2 -- Attention was called to the apparent inconsistency between the general application of para 1 and the specific reference to ships in para 2. It was agreed that this was a matter of drafting rather than substance and would be taken care of later.

Para 3 through 11 -- No objections.

Para 12 -- Would prefer that "b" should be considered an additional requirement to "a".

Para 13 through 15 -- no objections.

UNITED KINGDOM

Para 1 through 4 -- No objections.

Para 5 -- Some doubts about "b", but could probably be handled with proper drafting.

Para 6 through 14 -- No objections.

Para 15 -- Some question about the kind of "assets" referred to here.

CHINA

Insufficient time to consider position.

Meeting adjourned at 3 p.m.

Minutes of the Subcommittee Meeting on Restitution
of Looted Property FEC - 011/12

13 December 1946 - 9:30 am

Members present:

U.S.:	Mr. R. W. Barnett (chairman)
China:	Dr. A. Koo
Netherlands:	Dr. G. A. Weyer
Philippines:	Mr. F. R. Rodriguez
U. K.:	Mr. M. B. Thresher
U. S.	Mr. J. MacDonald
	Mr. Schuler
Secretariat:	Mr. D. K. Eichler

The Philippine member presented a rough draft of a policy for the restitution of cultural objects. (Attached to minutes) Discussion centered around some variation of this draft.

The Chinese member said that two approaches to the subject of looted cultural objects were possible: 1) Widening the definition of cultural objects and establish^{ing} a cultural floor; 2) set^{ting} up a narrow definition for restitutable looted cultural objects without a floor. The U. S. member preferred the first of these two approaches. The U. K. member pointed out that under the Philippine definition very little would probably be found for replacement. The U. S. member observed that from the point of view of long-range policy, it would be wise to avoid any presence of cultural looting ~~objects~~^{successes}, hence his support of a policy which would establish a floor or a level of Japanese cultural life which would prevent the use of a certain minimum of Japanese cultural objects for restitution.

After further discussion, it was agreed that the best approach would be the first mentioned above. The U. S. member said that he was in favor of establishing a policy which would broadly define the category of cultural objects available for restitution and that implementation of restitution policy should rest with an international tribunal established in Tokyo and operating in accord with relevant international law. He made brief reference to the Hague Convention of 1899 and 1907. The Netherlands member said that it was his feeling that the Far Eastern Commission should write its own restitution law.

In discussing the question of how a cultural floor could be established for Japan, the U. S. member suggested that reference might conveniently be made to the Japanese National Treasure registered as of a certain year, for example 1905. Since the Japanese National Treasure has been added to continuously since 1890, and since objects added after 1905 might reasonably be suspect, the early figure might be a wise one. This was, however, left for later determination. Such a procedure would, the U. S. member pointed out, obviate the necessity of the Allies having to make up^a specious defense of removals for restitution.

The Chinese member pointed out that use of the Japanese National Treasure as a criterion would make it impossible to use existing cultural objects such as libraries, laboratories, etc. for restitution, and suggested that a qualification be added to the criterion of "The Japanese National Treasure^{in-a-certain} year" to take account of this fact. The U. K. member pointed out that "requirements of the occupation" also extend to the use of

Minutes of the Subcommittee Meeting on Restitution
of Looted Property FEC - 011/12

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Philippines:	Mr. F. R. Rodriguez
U. K.:	Mr. M. B. Thresher
U. S.	Mr. J. MacDonald
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Minutes of the Subcommittee Meeting on Restitution
of Looted Property FEC 011/12

5 December 1946 - 9:30 am

Members present:

U. S.	Mr. R. W. Barnett (chairman)
China:	Dr. A. Koo
Netherlands:	Dr. G. A. Weyer
Philippines:	Mr. F. R. Rodriguez
U.K.:	Mr. M. B. Thresher
Secretariat:	Mr. D. K. Eichler

There was a short preliminary discussion concerning the status of C1-002/14 and /15 during which the U. S. member held that it would be inadvisable for the Reparations Committee to go ahead with any final action on the two papers before hearing from the U. S. Government and SCAP about them. The Netherlands member felt that there was no reason to await U. S. and SCAP opinion, but agreed to go along with the majority in favoring a delay pending such information. The Netherlands position was that the subject of the disposition of identifiable looted objects was in no way related to commercial questions, and that instead of debating the possibility of reserving certain categories of looted objects for commercial export, they should be returned to their owners immediately.

FEC-011/5, C1-002/7: RESTITUTION OF LOOTED CULTURAL OBJECTS.
The U. S. member pointed out that there are two possible approaches to the problem of restitution of cultural objects. One would be to make use of existing international conventions with respect to the settlement of looted property questions; the other would be the more informal method of preparing a basic policy paper on this question for submission to SCAP. It was decided to pursue the second method. The U.S., Philippine and Chinese members, after some discussion, agreed that the first main question to be decided was that of the sources from which looted objects not found would be replaced in equivalents. Two sources for such replacements were agreed upon:

- (1) Cultural objects found, but not identified as to origin.
- (2) Cultural objects of Japanese ownership.

The U. S. member suggested that category (2) above should be broken down into cultural objects (a) imported, and (b) locally produced, and voiced the feeling that the so-called Japanese National Treasure should not be subject to such replacement policy. The Netherlands member objected to the U. S. position and suggested that all Japanese cultural objects should be made available for whatever compensation is required by the nations looted by Japan. The U. S. member suggested that such a procedure would itself verge on looting, but the Netherlands member said that it was difficult for him to feel that the use of Japanese cultural objects in repayment for cultural objects looted by the Japanese from other countries was in any sense of the word "loot".

The U. K. member, in reference to the U. S.-Netherlands exchange of ideas, suggested that some limit on the use of Japanese cultural objects for such compensation would have to be set if the restitution program was not to undermine Japanese cultural life altogether.

It was finally decided that each of the five members present would draft a policy paper for next week's meeting of the Restitution Subcommittee. Tentative date for next meeting Friday, 13 Dec. Meeting adjourned at 11 am.

OF LOOTED PROPERTY REC 011/12

5 December 1946 - 9:30 am

Members present:

U. S.	Mr. R. W. Barnett (chairman)
China:	Dr. A. Koo
Netherlands:	Dr. G. A. Weyer
Philippines:	Mr. F. R. Rodriguez
U.K.:	Mr. M. B. Thresher
Secretariat:	Mr. D. K. Eichler

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It was finally decided that each of the five members present would draft a policy paper for next week's meeting of the Restitution Subcommittee. Tentative date for next meeting Friday, 13 Dec. Meeting adjourned at 11 am.

Minutes of the Subcommittee Meeting on Restitution
of Looted Property FEC 011/12

26 November 1946 - 4:30 pm

Members present:

China:	Dr. A. Koo
Netherlands:	Dr. G. A. Weyer
Philippines	Mr. F. R. Rodriguez
U.K.:	Mr. M. B. Thresher
U.S.:	Mr. R. W. Barnett (chairman)
Secretariat:	Mr. D. K. Eichler

The chairman suggested that in view of the short time remaining for the meeting, discussion should be confined to suggestions for revising Cl-002/15, the proposed addition to FEC-011/12 adopted at the last meeting of the Restitution Subcommittee. Inasmuch as this document (Cl-002/15) would be used in informal discussions with the Supreme Commander, the chairman considered it advisable to refine the wording of it as carefully as possible.

As a result of the ensuing discussion, the following revision of Cl-002/15 was agreed on:

Because reasonable doubts may arise as to whether or not particular objects are subject to restitution under the provisions of FEC-011/12, the Supreme Commander for the Allied Powers should create an agency comprising one representative from each of the restitution and reparations teams in Japan of the eleven member countries of the Far Eastern Commission to advise on restitution matters. The Supreme Commander should designate the chairman of that agency. It may meet at the call of the Supreme Commander or at the request of any member. The Supreme Commander should notify the United States Government of the views of the agency when his views conflict with those of the majority of the member countries.

The meeting adjourned at 5:30 pm, and will meet again next week at the call of the chairman.

RESTRICTED

CI-002/14

20 November 1946

FAR EASTERN COMMISSION

COMMITTEE NO. 1: REPARATIONS

RESTITUTION OF LOOTED PROPERTY
(Reference: FEC-011/12 & /19;
and CI-002/12 & /13)

Note by the Secretary General

1. The enclosure, a report of the Subcommittee on Restitution of Looted Property on statements by the Netherlands and United States members (FEC-011/19 and CI-002/12, /13) presented at the forty-ninth meeting of Committee No. 1, 18 November, is circulated herewith for the consideration of COMMITTEE NO. 1: REPARATIONS.
2. The United States member stated that he would have to abstain from approving these amendments, but agreed that they should be placed before Committee No. 1 for consideration.
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

CI-002/14

20 Nov 46

RESTRICTED

ENCLOSURE

REPORT OF SUBCOMMITTEE ON
RESTITUTION OF LOOTED PROPERTY

The Subcommittee on Restitution of Looted Property has considered the recent papers of the United States and Netherlands members (FEC-011/19, CI-002/12, /13), and has decided to submit for consideration of Committee No. 1 the following revisions to the restitution policy paper FEC-011/12.

(1) In the first sentence of paragraph 1, the words "or produced" are added after the words "been located"; and the words "or during" are added after the words "country at". This sentence would then read as follows:

"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 or produced in an Allied country at or during the time of occupation of that country, and which were removed by fraud or duress by the Japanese or their agents."

Barnett - should SCAP be asked what quantities of materials are concerned

(2) Sentence 2 of paragraph 7 has been altered to read:

"If items later determined to have been subject to restitution should have been exported, equitable compensation should be made to that country to which the items exported should have been restored."

Recommend to SC - ?

11/26/46

Amendment #1: Canada - USSR - Instruction against U.S.

12/2/46 P 2 ^(alone) deleted. Original version remains of P 7, sent. 2.

P 1 approved, with reservations of US.

*12/16/46 - ~~US~~ USSR instruction - anti-FEC-011/12
no. CI-002/14 - Vote 10-1 that "at the time
of" in FEC-011/12 means "during". U.S. against.*

Minutes of the Subcommittee Meeting on Restitution of
Looted Property Cl-002/12

15 November 1946 - 9:30am

Members present:

China:	Dr. A. Koo, Mr. P. Y. Hu
Netherlands:	Dr. G. A. Weyer
Philippines:	Mr. F. R. Rodriguez
U. K.:	Mr. M. B. Thresher
U. S.:	Mr. R. W. Barnett (chairman)
Secretariat:	Mr. D. K. Eichler

The U. S. member opened the discussion by suggesting that instead of continuing the debate between himself and the Netherlands member embodied to date in Cl-002/12, 1/13 more progress could probably be made by careful study of the basic policy paper on restitution FEC-011/12. The Netherlands member objected to this on the grounds that any revision of the policy paper would require Commission approval all over again, whereas a subcommittee interpretation of the meaning of FEC-011/12 would stand a better chance of effecting [REDACTED] settlement of the present differences on this issue. However, it was finally decided that a revision of the paper would be attempted.

The following revisions were subsequently agreed to by members of the subcommittee:

(1) In the first sentence of para 1, the words 'or produced' are added after the words 'been located'; and the words 'or during' are added after the words 'country at'. This sentence would then read as follows:

'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 or produced in an Allied country at or during the time of occupation of that country, and which were removed by fraud or duress by the Japanese or their agents.'

(2) Sentence 2 of para 7 has been altered to read:

'If items later determined to have been subject to restitution should have been exported, equitable compensation should be made to that country to which the items exported should have been restored.'

The U. S. member stated that he would have to abstain from approving these amendments, but agreed that they should be placed before Committee No. 1 for consideration.

The following Agenda for future meetings of the subcommittee was adopted:

- I. Settlement of the question of whether goods produced during occupation shall be subject to restitution.
- II. The questions of identification of looted property and the pool of unidentifiable looted property.
- III. Categories of looted property.
- IV. Replacement of looted cultural objects.

How about P 3, last sentence, FEC 011/12, 1/14? Should it be revised to bring it into line with P 1, SC-033/2

Minutes of the Subcommittee Meeting on Restitution of
Looted Property FEC 011/12

20 November 1946 - 2 pm

Members present:

China:	Dr. A. Koo
Netherlands:	Dr. G. A. Weyer
Philippines:	Mr. F. R. Rodriguez
U.K.:	Mr. M. B. Thresher
U.S.:	Mr. R. W. Barnett (chairman)
Secretariat:	Mr. D. K. Eichler

Item I on the Subcommittee's Agenda having been taken care of by the revision recently issued under CI-002/14, the chairman suggested discussion of Item II, the question of identification of looted property.

The Netherlands member pointed out that the entire question of identification was at present contingent upon SCAP's interpretation of FEC -011/12, and that since there was considerable room for differences of opinion on the question of interpretation, it was essential that the FEC either [redacted] provide an elaboration of FEC-011/12 or an addition to the same paper which would cover the question of the settlement of such differences of opinion.

After considerable discussion, it was decided to adopt the following addition to FEC-011/12, and the committee agreed that it should be placed before Committee No. 1 at its next meeting:

Because reasonable doubts may arise as to whether or not particular objects are subject to restitution under the foregoing policy, the Supreme Commander for the Allied Powers should create an agency comprising representatives of the restitution and reparations teams in Japan of the eleven member countries of the Far Eastern Commission to act as an advisory board on restitution matters. The Supreme Commander should designate the Chairman of that board. It may meet at the call of the Supreme Commander or at the request of any member. The Supreme Commander should notify the United States Government of the views of the board when his views conflict with those of the majority.

In discussing the above proposal, three possible modes of presentation of the idea to SCAP were considered:

1. As an additional paragraph of FEC-011/12.
2. As a separate policy paper.
3. Through a consultation with the Supreme Commander.

It was finally decided to adopt No. 1 above as the procedure to be used, and the chairman (U.S. member) agreed to sound out his Government informally on the question of such a Restitution Board as that envisaged by the new proposal.

At the next meeting of the Subcommittee (to be announced later) the question of the pooling of unidentifiable looted property will be discussed.

Minutes of the Sub Committee Meeting on Restitution of
Looted Property Cl-002/12

1 November 1946 - 2:15 pm

Members present:

China: Mr. A. Koo
Netherlands: Dr. G. A. Weyer
Philippines: Mr. F. R. Rodriguez
U. K.: Mr. M. B. Thresher
U. S.: Mr. R. W. Barnett (chairman)
Mr. J. MacDonald
Secretariat: Mr. D. K. Eichler

The Netherlands member took the position that the U. S. statement on Restitution of Looted Property, Cl-002/12, did not present any reasons why U. S. favors a different restitution policy for Japan from that followed in Germany. After some discussion, it was found that a basic disagreement existed on the question of what was to be considered looted property.

The U. S. position that "looted objects must have existed in their present form in the occupied country prior to and at the time that Japanese occupation occurred to be eligible for restitution" was contested by the Netherlands and U. K. members. The Netherlands member held that materials and objects produced in occupied territories by order of the Japanese could not be considered Japanese property. The U. S. paper had suggested that such materials be made available for export to cover imports required by the occupation, and the U. S. member asked how many members opposed this position. The Netherlands member was strongly opposed to this idea. The U. K. member expressed uncertainty as to the meaning of the term "produced by the Japanese," and implied support of the Netherlands position. The Philippine member suggested that all materials not identifiable as having been produced prior to Japanese occupation should be placed in the reparations pool. The Chinese member objected to the Philippine suggestion on the grounds that any preliminary assignment of specified items to the reparations pool was counter to the policy that the content of the reparations pool could be determined only after decisions on the level of economic life in Japan had been formally arrived at.

It was tentatively agreed to insert the words "in the view of the U. S. government" following the word "policy" in the sentence beginning "According to that policy...." (Line 3, page 2 of Cl-002/12)

The meeting adjourned at 3 p.m. to permit the members to attend the emergency session of the Commission.

Minutes of the Sub Committee Meeting on Restitution of
Looted Property Cl-002/12

1 November 1946 - 2:15 pm

Members present:

China:	Mr. A. Koo
Netherlands:	Dr. G. A. Weyer
Philippines:	Mr. F. R. Rodriguez
U. K.:	Mr. M. B. Thresher
U. S.:	Mr. R. W. Barnett (chairman)
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