

*Subcomm: Restitution of Ships*



FEC-RESTRICTED

Restitution Subcom/1

Subcommittee Circulation Only

20 September 1948

SUBCOMMITTEE ON RESTITUTION OF SHIPS

Proposed Report of Subcommittee to Committee No. 1

Note by the Secretary

1. The enclosure contains a proposed report to Committee No. 1, drafted by the Chairman and Secretary of the Subcommittee on Restitution of Ships, for the consideration of the Subcommittee.

2. This draft was prepared in accordance with an agreement of the Subcommittee at its meeting on 13 September 1948.

3. Members in attendance were:

U. K.	Mr. M. B. Thresher (Chairman)
China	Mr. Y. C. Yang, Dr. A. Koo
France	Mr. J. de Ferluc
U.S.	Mr. R. B. Smith
U.S.S.R.	Mr. S. M. Sergeev, Mr. B. K. Sokolov

JAMES F. DAVIDSON  
Reparations Committee Secretary

Subcommittee Circulation Only



FEC-RESTRICTEDE N C L O S U R EPROPOSED REPORT OF THE SUBCOMMITTEE ON  
RESTITUTION OF SHIPS TO COMMITTEE 1

1. The Subcommittee was directed by Committee 1 on 8 September to study the problem of the costs of salvage, repair and refitting of ships which were seized by the Japanese and which were subsequently found outside Japanese waters.

2. The majority of the Subcommittee, taking into consideration the lengthy discussion of this subject which has already taken place in the Commission, agreed that a necessary first step in seeking a solution to the problem was to obtain information on its magnitude, since it was possible that the views previously expressed might be modified if it were found that the total costs involved were relatively inconsiderable.

3. The majority of the Subcommittee also agreed that it was desirable, at least for the time being, to consider separately (a) the question of ships found in the waters of third countries, and (b) the question of ships elsewhere than in the waters of third countries or of Japan.

4. If the proposals contained in Enclosures A and B are adopted, no more will have been achieved than to obtain information for further study. It is doubtful whether any useful purpose would be served by further meetings of the Subcommittee until a decision on its present proposals is reached. If the information is supplied, however, the Committee will probably wish the Subcommittee to deal with it, and it is therefore suggested that the Subcommittee should remain in being in readiness to deal with the information, or with any other proposals which may be produced.

5. The majority of the Subcommittee recommend the adoption by Committee 1 of the resolutions contained in Enclosures A and B.



FEC-RESTRICTEDENCLOSURE "A"

1. Members agree to request their Governments to furnish information concerning:

- (a) ships of their own registry which were seized by the Japanese and are believed to be now located in the territorial waters of third countries. (By "third countries" is meant countries other than their own territory or Japan).
- (b) ships of the registry of third countries which were seized by the Japanese and are now located in their own territorial waters.

2. The information should include such details of the following as are available:

- (a) Name, type and tonnage of the vessel
- (b) Date, place and circumstances of seizure
- (c) If sunk or damaged, time of such sinking or damage
- (d) Present location
- (e) Present condition, e.g. sunk, salvable, beached, severely damaged, slightly damaged, etc.

3. Particulars should also be given of any action so far taken in connection with ships under paragraph 9 of FEC-011/12 or paragraph 10 of FEC-011/51.



FEC-RESTRICTED

ENCLOSURE "B"

1. Members agree to request their Governments to furnish information concerning ships of their own registry which were seized by the Japanese, were subsequently sunk or damaged, and are at present located elsewhere than in Japanese waters or the waters of third countries.

2. The information should include such details of the following as are available:

- (a) Name, type and tonnage of the vessel.
- (b) Date, place and circumstances of seizure.
- (c) When sunk or damaged.
- (d) Present location.
- (e) Present condition, e.g. sunk, salvable, beached, severely damaged, slightly damaged, etc.

3. If salvage or repair has already been undertaken, particulars of the costs incurred should also be given.



## AGREEMENTS OF THE AD HOC RESTITUTION SUBCOMMITTEE

1. To recommend to the Steering Committee that all member delegations be asked to furnish information concerning the following points:
  - a. any pertinent information about looted ships of third countries which are now located in their own territorial waters.
  - b. any pertinent information about ships of their own which may have been looted by the Japanese and are believed to be located now in the waters of third countries.
2. To request the Secretariat to compile a summary of the views of delegations on paragraph 9 of FEC-011/12, (FEC policy decision on Restitution of Looted Property), which may have been expressed either in the FEC or in Committee.
3. To ask delegations who desire to do so to submit the official views which their country held at the time of the adoption of this policy on the meaning of paragraph 9 of FEC-011/12.
4. To request the U.S. member to obtain the following information:
  - a. Have any claims been filed with SCAP in connection with paragraph 9 of FEC-011/12?
  - b. What has been SCAP's action, if any, on these claims?
  - c. How has paragraph 3 of FEC-011/12 been implemented by SCAP? (How many looted Allied ships have been located in Japan, and how much repair work on them has been done?)



SUMMARY OF MEETING ON RESTITUTION OF SHIPS

10:30 a.m., 22 September 1948

## ATTENDANCE

Mr. M. B. Thresher	U.K. (chairman)
Dr. A. Koo	China
Mr. J. de Ferluc	France
Mr. B. K. Sokolov	USSR

The U. K. Member asked if any of the members had comments on the draft report which had been prepared. The Chinese Member suggested that since the purpose in requesting the information was to get an idea of the magnitude of the problem, there was no need to treat the ships included in Enclosures "A" and "B" separately. The U. K. Member replied that Enclosure "A" deals with ships already included in the adopted policy, para. 10 of FEC-011/51. Enclosure "B" includes ships not covered by the policy, and hence is a new question. Also he said the phrase "sunk or damaged" appears in Enclosure "B" only. There is the question of cost of salvage and repairs to ships in the category of Enclosure "B", since they are not covered <sup>by existing policy</sup> as those in Enclosure "A". It is clear that these categories are different and should be treated so. If information on both categories is obtained, the size of the whole problem will be evident and there will be no need of seeking separate information later.

The Chinese Member said that Enclosure "B" raised a delicate question. There might be divided opinion as to whether the ships in this category should or should not be covered by the existing policy. Separate treatment in the preliminary stages might prejudice the question of final separation. He saw no good reason to separate the categories now, and thought that the problem became very complicated if this were done. Some countries might use this reason for not giving the information. He said that China was anxious to supply the information, but that some other countries might not supply the information in Enclosure "B" at all if it were treated separately.



The U. K. Member said that there was always the possibility of difference in interpretation. In case of such differences, the only thing to do was to clarify the problem as much as possible so that some action can be taken. He recalled that the French position on the draft of FEG-011/51 was that the principles of para. 3 should be applied to the ships in the category of Enclosure "B". It was his understanding that this was also the intent of the amendment proposed by the Soviet delegation. It is clear that the problem of ships in other than third country waters has already been raised as a separate question. Even if some countries refuse to supply the information in Enclosure "B", the information in Enclosure "A" would still be useful.

The Chinese Member asked whether the decision on the request would be taken at the level of Committee No. 1 or at the Commission level.

The U. K. Member replied that he did not know what the Committee would do. He proposed, as Chairman of the Subcommittee, to say a few words about the report in Committee No. 1, but that he would make no suggestion. He thought there was no point in referring the matter to the Commission if all of Committee No. 1 could agree. He hoped that such agreement could be obtained. The Chinese Member asked if the U. K. Member thought the matter should be forced to the Commission level if there was a divided opinion in Committee No. 1. The U. K. Member replied he saw no point in that since it was impossible to force information from countries who refused to give it. He pointed out that unless there was general agreement to supply the information, the paper was useless. In the case of his own Government, it might be a complicated job to collect the information, <sup>and</sup> but he did not propose to make the request unless there were a general agreement of all countries to do so.

The French Member said that he was willing to have the report presented to Committee No. 1 as it stood. The U. K. Member asked the Soviet Member what his position was. The Soviet Member said that he had



no instructions, but that it was the Soviet view that whatever the extent of damage to ships in the waters of third countries, the cost of salvage should be borne by the Japanese. Therefore the paper was unnecessary. However, he had no objection to forwarding it to Committee No. 1.

The U. K. Member suggested that the Secretary obtain the view of the U. S. Member, who was absent, on the report. If it were favorable to him, and if the Chinese Member had no objection, he suggested that the Subcommittee not meet again and that the Secretary prepare the report for submission to Committee No. 1 including a statement on the views of the Chinese and Soviet Members.

The Chinese Member proposed that para. 3 of the proposed report read as follows:

The majority of the Subcommittee also agreed that it was desirable, at least for the time being, to ~~consider~~ gather separately information concerning (a) ~~the-question-of~~ ships found in the waters of third countries, and (b) ~~the-question-of~~ ships elsewhere than in the waters of third countries or of Japan.

The Subcommittee agreed to this change.

*There was no further discussion*



SUMMARY OF DISCUSSION OF THE SUBJECT OF SHIPPING IN  
FEC-011/40, RESTITUTION OF LOOTED PROPERTY, AT THE  
SECOND MEETING OF THE AD HOC SUBCOMMITTEE OF  
THE WHOLE COMMISSION

2 December 1947

Mr. Reuchlin (Netherlands), Chairman, recalled that the Subcommittee at its last meeting had agreed to discuss the advisability of deleting the subject of shipping from the restitution paper for treatment in a separate paper. He suggested that the Subcommittee give consideration to a recommendation to the Commission that paragraphs 10 and 11 be deleted from FEC-011/40.

Mr. Graves (UK) said that he would favor such a proposal inasmuch as paragraphs 10 and 11 could not be implemented by SCAP and were therefore extraneous to the substance of the paper, which was in the form of a directive to SCAP.

Dr. Tan (China) said that he would favor the deletion of paragraphs 10 and 11 with the understanding that the subject matter contained in them would be reserved for consideration in a separate paper in connection with the proposed Soviet amendment to paragraph 10 and the Chinese proposal to extend the principle of restitution to looted ships wherever found. He emphasized again that his Government considered this paper to be an urgent one and that he assumed it was so considered by all the looted countries. He recalled that his delegation had agreed to support paragraph 8 of FEC-011/40 despite the fact that it was not a wholly satisfactory solution from its point of view. However, in the interests of expediting the paper, the Chinese delegation had proceeded on the assumption that a compromise was desirable. It had been hoped that other delegations would be able to acquiesce in similar compromises on the other outstanding issues in the paper. Since this now seemed unlikely within the scope of the present paper, his delegation would agree to the deletion of paragraphs 10 and 11 as suggested by Mr. Reuchlin.

Dr. Blakeslee (US) said that it was the view of his Government that FEC-011/40 was an urgent paper. Although the U.S. interest in the paper was slight as compared with the looted countries, it was worth remembering that the paper was also urgent from SCAP's point of view. The use of the materials provided in paragraph 8 for necessary imports into Japan was a matter of considerable importance to SCAP; and the fact that stocks of looted materials in Japan were subject to continual deterioration and random thievery, was a matter which SCAP must perforce view with the gravest concern. FEC-011/40 was therefore an urgent paper for both the looted countries and for SCAP. Regarding the Soviet amendment, Dr. Blakeslee pointed out that the vast majority of the members of the FEC were unable to accept it. However attractive the principle of Japanese responsibility for the costs of rehabilitating looted vessels found in the waters of third countries might be, most members of the Commission were clearly reluctant to adopt a procedure which would be administratively unfeasible. Dr. Blakeslee recalled that he had pointed out at the last meeting of the Subcommittee that there were a number of complex problems involved in the subject of property



- 2 -

found in third countries that had not been fully explored by the Commission. Such problems as the number of ships that would be affected under the Soviet proposal; the complex financial problems involved in the payment of the cost of salvaging such ships; the conditions under which it would be considered feasible to salvage such ships; and the question of whether looted ships should be salvaged from the waters of all claimant countries or from the waters of third countries only--such problems as these required still further exploration and study, and gave cogency to the proposal that paragraphs 10 and 11 be deleted from FEC-011/40 for consideration in a separate paper. This would make possible early approval by the Commission of the restitution paper.

Mr. Korobochkin (USSR) said that his delegation could not approve FEC-011/40 if it did not contain a statement of the principle of Japanese responsibility for costs of rehabilitating looted ships found in the waters of third countries. He could not concur in the belief that partition of the paper would expedite matters. On the contrary, as the Commission's experience with the fishing and whaling and agrarian reform papers had demonstrated, partition leads only to excessive delay. The Soviet delegation considered that it had sacrificed its position to some extent in other parts of the restitution paper and that it had done so with a view to obtaining unanimous agreement and with the hope that the Soviet amendment would be approved. In the circumstances, the Soviet delegation could agree to neither the partition of FEC-011/40 nor to the adoption of the document without the Soviet amendment.

Colonel Powles (NZ) said that while he did not wish to commit himself on this point, it was at least reasonably doubtful whether SCAP was competent to implement the kind of procedure embodied in the proposed Soviet amendment. He wondered whether the Commission should give consideration to the informal proposal of the UK member at the last meeting. This proposal was as follows: Looted ships found in third countries might be towed to Japan at the expense of the claimant country; repaired at Japanese ports at the expense of the Japanese; and returned to the claimant country at the expense of the claimant country. Colonel Powles asked the Soviet and US members whether they could express their delegations' views on this proposal.

Mr. Korobochkin (USSR) said that there was no reason to suppose that unreasonable demands would be made for salvaging of useless vessels. The two countries concerned--the country in whose waters the ship was found and the country owning the ship--would consult regarding the expediency of salvaging each particular vessel. No country would be interested in sewing an overcoat to a button; no country would be interested in building a ship around an anchor! Each case would be judged on its own merits. The Soviet delegation was merely suggesting that such salvaging be done at the expense of the Japanese and that SCAP be granted the authority to allocate funds for this purpose. The technical problems involved were relatively slight compared to the importance of the principle.

Mr. Reuchlin (Netherlands) said that the Subcommittee would interpret the Soviet member's comments as indicating disapproval of the UK suggestion.



- 3 -

Dr. Blakeslee (US) said that his Government's position was that any proposal to amend FEC-011/40 which would involve protracted discussion was inadvisable at this stage in view of the urgency of the paper. However, his Government would be glad to consider any proposals concerning the restitution of looted ships found in non-Japanese waters, provided such proposals were considered on their own merits in a paper distinct from FEC-011/40. As suggested before, his delegation would agree that paragraphs 10 and 11 should be deleted from the paper and considered in a separate paper along with such other collateral problems as: conditions of salvage, the degree of financial burden to be placed on the Japanese Government, the administrative feasibility of the entire operation, etc.

The Chairman then proposed that the Subcommittee recommend to the Commission that paragraphs 10 and 11 be deleted from FEC-011/40, the subject matter contained in these paragraphs to be considered in a separate paper.

The Subcommittee, with the exception of the Soviet Member, approved the above recommendation, and it will be submitted to the Commission at its meeting on 4 December 1947. The recommendation will be circulated as FEC-011/42. The Chairman of the Subcommittee, Mr. Reuchlin, will comment briefly at the Commission meeting on the rationale underlying the Subcommittee's recommendation.

D.K. Eichler: FEC: eh



SUMMARY OF DISCUSSION OF THE SUBJECT OF SHIPPING IN  
FEC-011/40, RESTITUTION OF LOOTED PROPERTY, AT THE  
SECOND MEETING OF THE AD HOC SUBCOMMITTEE OF  
THE WHOLE COMMISSION

2 December 1947

Mr. Reuchlin (Netherlands), Chairman, recalled that the Subcommittee at its last meeting had agreed to discuss the advisability of deleting the subject of shipping from the restitution paper for treatment in a separate paper. He suggested that the Subcommittee give consideration to a recommendation to the Commission that paragraphs 10 and 11 be deleted from FEC-011/40.

Mr. Graves (UK) said that he would favor such a proposal inasmuch as paragraphs 10 and 11 could not be implemented by SCAP and were therefore extraneous to the substance of the paper, which was in the form of a directive to SCAP.

Dr. Tan (China) said that he would favor the deletion of paragraphs 10 and 11 with the understanding that the subject matter contained in them would be reserved for consideration in a separate paper in connection with the proposed Soviet amendment to paragraph 10 and the Chinese proposal to extend the principle of restitution to looted ships wherever found. He emphasized again that his Government considered this paper to be an urgent one and that he assumed it was so considered by all the looted countries. He recalled that his delegation had agreed to support paragraph 8 of FEC-011/40 despite the fact that it was not a wholly satisfactory solution from its point of view. However, in the interests of expediting the paper, the Chinese delegation had proceeded on the assumption that a compromise was desirable. It had been hoped that other delegations would be able to acquiesce in similar compromises on the other outstanding issues in the paper. Since this now seemed unlikely within the scope of the present paper, his delegation would agree to the deletion of paragraphs 10 and 11 as suggested by Mr. Reuchlin.

Dr. Blakeslee (US) said that it was the view of his Government that FEC-011/40 was an urgent paper. Although the U.S. interest in the paper was slight as compared with the looted countries, it was worth remembering that the paper was also urgent from SCAP's point of view. The use of the materials provided in paragraph 8 for necessary imports into Japan was a matter of considerable importance to SCAP; and the fact that stocks of looted materials in Japan were subject to continual deterioration and random thievery, was a matter which SCAP must perforce view with the gravest concern. FEC-011/40 was therefore an urgent paper for both the looted countries and for SCAP. Regarding the Soviet amendment, Dr. Blakeslee pointed out that the vast majority of the members of the FEC were unable to accept it. However attractive the principle of Japanese responsibility for the costs of rehabilitating looted vessels found in the waters of third countries might be, most members of the Commission were clearly reluctant to adopt a procedure which would be administratively unfeasible. Dr. Blakeslee recalled that he had pointed out at the last meeting of the Subcommittee that there were a number of complex problems involved in the subject of property



- 2 -

found in third countries that had not been fully explored by the Commission. Such problems as the number of ships that would be affected under the Soviet proposal; the complex financial problems involved in the payment of the cost of salvaging such ships; the conditions under which it would be considered feasible to salvage such ships; and the question of whether looted ships should be salvaged from the waters of all claimant countries or from the waters of third countries only--such problems as these required still further exploration and study, and gave cogency to the proposal that paragraphs 10 and 11 be deleted from FEC-011/40 for consideration in a separate paper. This would make possible early approval by the Commission of the restitution paper.

Mr. Korobochkin (USSR) said that his delegation could not approve FEC-011/40 if it did not contain a statement of the principle of Japanese responsibility for costs of rehabilitating looted ships found in the waters of third countries. He could not concur in the belief that partition of the paper would expedite matters. On the contrary, as the Commission's experience with the fishing and whaling and agrarian reform papers had demonstrated, partition leads only to excessive delay. The Soviet delegation considered that it had sacrificed its position to some extent in other parts of the restitution paper and that it had done so with a view to obtaining unanimous agreement and with the hope that the Soviet amendment would be approved. In the circumstances, the Soviet delegation could agree to neither the partition of FEC-011/40 nor to the adoption of the document without the Soviet amendment.

Colonel Powles (NZ) said that while he did not wish to commit himself on this point, it was at least reasonably doubtful whether SCAP was competent to implement the kind of procedure embodied in the proposed Soviet amendment. He wondered whether the Commission should give consideration to the informal proposal of the UK member at the last meeting. This proposal was as follows: Looted ships found in third countries might be towed to Japan at the expense of the claimant country; repaired at Japanese ports at the expense of the Japanese; and returned to the claimant country at the expense of the claimant country. Colonel Powles asked the Soviet and US members whether they could express their delegations' views on this proposal.

Mr. Korobochkin (USSR) said that there was no reason to suppose that unreasonable demands would be made for salvaging of useless vessels. The two countries concerned--the country in whose waters the ship was found and the country owning the ship--would consult regarding the expediency of salvaging each particular vessel. No country would be interested in sewing an overcoat to a button; no country would be interested in building a ship around an anchor! Each case would be judged on its own merits. The Soviet delegation was merely suggesting that such salvaging be done at the expense of the Japanese and that SCAP be granted the authority to allocate funds for this purpose. The technical problems involved were relatively slight compared to the importance of the principle.

Mr. Rauchlin (Netherlands) said that the Subcommittee would interpret the Soviet member's comments as indicating disapproval of the UK suggestion.



- 3 -

Dr. Blakeslee (US) said that his Government's position was that any proposal to amend FEC-011/40 which would involve protracted discussion was inadvisable at this stage in view of the urgency of the paper. However, his Government would be glad to consider any proposals concerning the restitution of looted ships found in non-Japanese waters, provided such proposals were considered on their own merits in a paper distinct from FEC-011/40. As suggested before, his delegation would agree that paragraphs 10 and 11 should be deleted from the paper and considered in a separate paper along with such other collateral problems as: conditions of salvage, the degree of financial burden to be placed on the Japanese Government, the administrative feasibility of the entire operation, etc.

The Chairman then proposed that the Subcommittee recommend to the Commission that paragraphs 10 and 11 be deleted from FEC-011/40, the subject matter contained in these paragraphs to be considered in a separate paper.

The Subcommittee, with the exception of the Soviet Member, approved the above recommendation, and it will be submitted to the Commission at its meeting on 4 December 1947. The recommendation will be circulated as FEC-011/42. The Chairman of the Subcommittee, Mr. Reuchlin, will comment briefly at the Commission meeting on the rationale underlying the Subcommittee's recommendation.

D.K. Eichler: FEC: eh



FEC-RESTRICTEDAd Hoc Restitution Subcom  
of FEC26 November 1947FAR EASTERN COMMISSIONAD HOC RESTITUTION SUBCOMMITTEESUMMARY OF DISCUSSION OF THE SUBJECT OF SHIPPING  
IN FEC-011/40 AT MEETING OF AD HOC RESTITUTION SUBCOMMITTEE  
ON 26 NOVEMBER 1947

1. The enclosure contains a brief summary of the discussion of the subject of shipping in FEC-011/40, Restitution of Looted Property, which took place at a meeting of the Ad Hoc Subcommittee on this subject held on 26 November 1947.

2. The Far Eastern Commission at its eighty-first meeting, 20 November 1947, referred the subject of shipping in FEC-011/40, Restitution of Looted Property, to an Ad Hoc Subcommittee of the whole Commission for consideration in the light of the discussion by the Commission.

3. The following representatives attended the meeting referred to in paragraph 1 above:

Mr. O. Reuchlin (Netherlands), Chairman  
Mr. H. W. Bullock (Australia)  
Dr. S. H. Tan (China)  
Dr. A. Koo  
Mr. R. Douteau (France)  
Mr. G. R. Fowles (New Zealand)  
Mr. J. U. Jovellanos (Philippines)  
Mr. S. S. Ramishvili (USSR)  
Mr. A. P. Korobochkin  
Mr. P. K. Koulskov  
Mr. H. A. Graves (United Kingdom)  
Mr. M. B. Thresher  
Dr. G. H. Blakeslee (United States)  
Mr. R. W. Barnett

NELSON T. JOHNSON  
Secretary General



FEC-RESTRICTEDE N C L O S U R ESUMMARY OF DISCUSSION OF THE SUBJECT OF SHIPPING  
IN FEC-011/40 AT MEETING OF AD HOC RESTITUTION SUBCOMMITTEE  
ON 26 NOVEMBER 1947Adoption of Amendment to Paragraph 10 of FEC-011/40

The Chairman opened the meeting by recalling that the entire subject of shipping in the paper on Restitution (FEC-011/40) had been referred to this Subcommittee for consideration. He suggested that members give first attention to the possibility of clarifying the last phrase of paragraph 10: "that bilateral arrangements be drawn up providing for restitution according to these principles".

After brief discussion of the intended meaning of this part of paragraph 10, the Subcommittee agreed to amend it as follows:

"... that bilateral arrangements be drawn up providing for restitution according to these the principles embodied in this policy decision".

Discussion of the Proposed Soviet Amendment to Paragraph 10

The New Zealand Representative said that the adoption of the above amendment did not, of course, solve the primary problem facing the subcommittee, namely, the desire on the part of the Soviet delegation to include in this paper a specific provision for payment by the Japanese of the costs of "the necessary work of the salvaging, repairing and refitting of looted ships in the cases where they were sunk or damaged". The New Zealand Representative said that since it was impossible to state which "principles" in paragraph 3 of this paper applied to paragraph 10, and which did not, the new amendment did not actually alter the previous meaning of the paragraph. The New Zealand Representative felt there was something to be said for including in FEC-011/40 the principle of Japanese responsibility for the payment of the costs of rehabilitating looted ships found outside Japanese waters. In his view the inclusion of such a provision in this paper involved considerably less difficulty than some members seemed to think. He pointed out that before any salvaging operations could begin it would be necessary for "bilateral arrangements" to be made. Since the proposed Soviet amendment merely enunciated the principle of Japanese obligation for the payment of such costs but said nothing specific about the administrative details of such operations, he could see very little serious objection to it.

Mr. Barnett of the U. S. delegation reiterated the position of his Government to the effect that the Japanese economy was in no position to absorb any further charges against its foreign exchange. Since operations involving the salvaging of ships found outside Japanese waters would involve such charges, the U. S. delegation felt that such a requirement was quite unrealistic. The New Zealand Representative said that while it was quite true that the Japanese economy was not, in its present condition, able to absorb such charges against its foreign exchange, it was not unreasonable to suppose that in the long run the economy would be able to do so. The New Zealand Representative also suggested as an alternative the possibility that paragraph 10 might be amended by adding the following sentence, which originally appeared in paragraph 3 of FEC-011/12 as applied to ships found in Japanese waters:



FEC-RESTRICTED

"The costs of necessary salvaging, repairing and refitting should be borne by the Japanese Government, but should be applied against the reparations apportionment to the claimant countries".

Mr. Barnett of the U. S. delegation pointed out that the application of this provision to paragraph 10 would not be practicable since countries not members of the FEC were also covered by this paragraph and it was still very doubtful whether shares of Japanese reparations would be accorded to non-FEC countries.

The Chairman said that in view of most of the recent discussions of this subject there appeared to be only one course which the vast majority of members seemed to approve, namely, that the subject of shipping be removed from the paper for separate treatment, thus permitting the adoption by the FEC of the remainder of the restitution paper. As a representative of one of the countries whose territories were looted by the Japanese, the Netherlands Representative said that he was naturally very much concerned with expediting FEC-011/40. He wondered whether the Subcommittee should not give its attention once more to the possibility of separate treatment of the subject of shipping. The Chinese Representative said that his delegation's position was well-known to all members and that while he was quite agreeable to separate treatment of the subject of shipping, he thought it would be unrealistic to proceed with any such discussion unless the Soviet Representative felt such a course might prove to be a useful one to follow. The Chinese Representative further commented on the material interest of his country in this subject, recalling that over 60 Chinese ships were involved, some in Korean waters, some in the waters of other countries and some lost on the high seas.

The Soviet Representative, replying to the Chinese query, stated that separation from the paper of the subject of shipping would not be satisfactory to his delegation. He could not accept the view that the paper on restitution had been referred to this Subcommittee merely because the Soviet Representative wished to obtain approval for its particular amendment. In his view the purpose of the Subcommittee's deliberations should be the achievement of the common objectives of all members in the restitution paper. He pointed out that from the outset the Soviet suggestion that the Japanese be responsible for the costs of salvaging ships found in the waters of third countries had been ridiculed by many members. If this had not been the case, his delegation might have been better disposed toward the idea of removing the subject of shipping from the restitution paper for separate treatment. As it now stood, however, it would be very foolish to agree to discuss separately a subject which had been prejudged as being "nonsense". Under such circumstances there would be little hope of obtaining a satisfactory solution. The Soviet delegation, therefore, would have to insist on settling the issue regarding ships within the scope of the restitution paper.

The Chinese Representative then suggested that the statement made by him at the 75th meeting of the FEC might serve as the basis for the Subcommittee's discussion at this stage. He read from his remarks at the 75th meeting of the FEC page 3, as follows:

"... ships of Allied countries represented in the Far Eastern Commission sunk or damaged outside Japanese waters by Japan should, on the request of the countries concerned, be salvaged, repaired, and refitted to permit them to return in a condition sufficiently similar to that at the time they came into Japanese hands. The costs for such salvage, repair, and refitting should be borne by the Government of Japan. The Supreme Commander for the Allied Powers is authorized to pay for such costs out of Japanese funds".



FEC-RESTRICTED

Mr. Barnett of the U. S. delegation said that this was open to the objections of his delegation as already stated above, namely, that since no "Japanese funds" would be available to meet the costs of rehabilitating looted ships found outside Japanese waters, the payment of such costs would inevitably fall upon the U. S. Government, which is to say, upon the U. S. taxpayer. The Soviet Representative said that he had never been able to understand exactly why it was that the U. S. taxpayer would, in the view of the U. S. delegation, have to bear such costs. Mr. Barnett of the U. S. delegation attempted to explain how Japan's economy was a burden upon the U. S. taxpayer. He referred to various Far Eastern Commission policies and the Potsdam Declaration, which assure the Japanese of a minimum civilian economy. He pointed out that Japan was a food deficit area at the present time and that imports of food into Japan to meet disease and unrest requirements came out of U. S. resources and were paid for by the U. S. Government. These disease and unrest imports are paid for in part by Japanese exports. The volume of Japanese exports, however, is limited. The U. S. Government -- and therefore the U. S. taxpayer -- is carrying the financial load for the difference between essential imports and available exports. It followed, he pointed out, that to the extent that foreign exchange accruing from Japanese exports was allocated for purposes other than disease and unrest imports (for example, the cost of rehabilitating looted ships sunk outside Japanese waters), to that extent would such costs constitute an increased burden upon the U. S. Government and taxpayer.

The Soviet Representative suggested that one possible solution might be to have the Japanese make the goods necessary for the repair and refitting of ships, and give such goods to the claimant countries. This would not require foreign exchange, and would be well within the power of the Japanese economy to produce. As for the limited production available for export, the Soviet Representative said that in his view the Japanese should consume less than they do and thus leave more available for export. They were living at present well above subsistence level and could afford a more austere domestic economy if they had to. The Soviet Representative further stated that while it was understandable that the U. S. should wish to receive payment for its imports into Japan as well as for other occupation costs, it did not seem fair that virtually all available Japanese assets should be given to the U. S. with none left over for the legitimate requirements of other countries. He suggested that a more equitable arrangement would be to send a certain percentage of Japanese production to the United States in payment for occupation costs, and a percentage to other countries for the payment of costs of salvaging ships found outside Japanese waters.

The Philippine Representative asked whether there was not a very real possibility that the Japanese would never be able to pay fully the costs of the occupation. Mr. Barnett of the U. S. delegation said that occupation costs clearly could not be paid until the Japanese had attained minimum economic self-support. The Soviet Representative said that even though it might be felt by some members that the Japanese might not ultimately pay the costs of the occupation, that was no reason for failing to require that they pay the cost of rehabilitating looted ships sunk or damaged by them during the war.

Mr. Karobochkin of the Soviet delegation once more recapitulated the position of his delegation with regard to the sources of Japanese assets out of which such costs might be met. These



FEC-RESTRICTED

were as follows: (1) current production of gold; (2) proceeds from the Japanese export surplus; (3) stocks of gold currently available in Japan; (4) special arrangements with the countries concerned. Mr. Korobochkin also remarked that it was decided already that repayment of occupation costs was partially to be secured from stores of Japanese-owned gold, silver, other precious metals, precious stones, and jewels available in Japan, and that it was therefore not correct to say that the U. S. taxpayer would, in the last analysis, be required to pay the costs of salvaging ships found outside Japanese waters. The Soviet Representative said that if the U. S. taxpayer should ultimately be made to shoulder the burden of these costs, it would be very difficult to explain why this was done in view of the fact that Japan was a former enemy country and not one of the states of the United States. He thought it should further be pointed out that while the U. S. taxpayer might have to pay a portion of the costs of the Japanese occupation, it should not be forgotten that if the Japanese were not made to pay the costs of salvaging ships found outside their waters, the Soviet taxpayers would, among others, have to pay those costs themselves. He was unable to see why such special regard should be given to the Japanese over and above the Allied countries who fought against her.

The United Kingdom Representative suggested an alternative method of handling the question of the rehabilitation of ships found in third countries. Such ships might be towed to Japan at the expense of the claimant country; repaired at Japanese ports at the expense of the Japanese; and returned to claimant countries at the expense of the claimant country. There was no discussion of this suggestion.

The United Kingdom Representative also commented on the Soviet Representative's statement regarding the availability of stocks of gold, silver, other precious metals, precious stones and jewels in Japan. He pointed out that in FEC-032/26 provision was clearly made for ultimate disposition of such stocks as reparations. The question of occupation costs, he said, was not mentioned in FEC-032/26 at all.

Mr. Barnett of the U. S. delegation commented on the U. K. Representative's statement regarding FEC-032/26. He agreed that repayment of occupation costs had not been mentioned in FEC-032/26 in the paragraph on stocks of gold, silver, etc., but said that the reason it had not been mentioned there was that the principle of repayment had been taken for granted. He recalled that in the FEC Basic Policy Paper (FEC-014/9) in the section on Reparations, it had been clearly stated that "reparations shall be in such a form as would not endanger the fulfillment of the program of demilitarization of Japan and which would not prejudice the defraying of the cost of the occupation and the maintenance of a minimum civilian standard of living". This was the governing principle on all reparations and therefore applied also to the disposition of the items referred to in paragraph 16 c of FEC-032/26.

The Netherlands Representative, speaking as Chairman, suggested that the Subcommittee should meet once more before reporting to the FEC and that it might be advisable to have the Secretary prepare a draft of the restitution paper as amended in paragraph 10 by the Subcommittee at this meeting, and a second draft as the paper would appear if the subject of shipping were deleted. After brief discussion it was decided that in view of the fact that the entire restitution paper, FEC-011/40, had not been referred to the Subcommittee, but only "the subject of shipping" in that paper, it would be appropriate to consider at



FEC-RESTRICTED

the next meeting of the Subcommittee only the question of a possible recommendation to the FEC that the subject of shipping be removed from FEC-011/40. The Netherlands Representative said that the discussion seemed to point to the fact that the subject of shipping in FEC-011/40 involved certain reparations issues not wholly appropriate for inclusion in a restitution paper. It would seem to be advisable, therefore, to deal with this subject on its own merits.

The U. S. Representative, summing up the discussion, said that the Commission had at this meeting considered the principle involved in the proposed Soviet amendment and certain practical considerations as well. He thought it was very important not to confuse these two aspects of the problem, since it would be unwise to acquiesce in a particular procedure on the grounds that it embodied a desirable principle if the procedure itself were administratively unfeasible. He pointed out that the subject under consideration was a rather complex one involving, inter alia, the following considerations: (1) the number of ships that would be affected under the Soviet proposal; (2) the complex financial problems involved in the payment of the costs of salvaging such ships; (3) the conditions under which it would be considered feasible to raise a ship in non-Japanese waters, e. g., the ratio of the cost of raising such a ship to the value of the ship; (4) the question of whether ships should be salvaged from the waters of all claimant countries or from the waters of third countries only. Since there were so many complex and as yet inadequately explored problems still outstanding on this subject, and since the purely restitution aspects of FEC-011/40 were considered to be matters of great urgency by the looted countries, he would suggest that the subject of shipping be lifted from FEC-011/40 and treated thoroughly and sympathetically in a separate paper.

The Subcommittee agreed to take up the discussion at this point at its next meeting, to be held immediately following the Steering Committee meeting on 2 December 1947, or in the absence of a Steering Committee meeting, at 10:30 a. m. on that date.