

receipt of such instructions, I would like to reserve the right of my delegation to make a statement when the instructions are received on this point.

GEN. MCCOY: Yes. Well that statement can be made at any time. The statement of the French representative raises a very important subject for the consideration of all our governments. It's not pertinent to this paper today. It raises a very important legal question that will have to be considered apart from the action on this statement of the Soviet representative.

MR. DOUTEAU: Yes, Mr. Chairman. That is why I asked if it were in order to make that statement. It's in no way at all so far linked with the Soviet proposal; it's something else.

GEN. MCCOY: Have you any further statement, Mr. Ambassador, representing the Soviets?

MR. PANYUSHKIN: Mr. Chairman, the question is clear to me.

GEN. MCCOY: Clear?

MR. PANYUSHKIN: Yes.

GEN. MCCOY: The question before the Commission is based on FEC-305/17 and the Netherlands representative moves the adoption of the report of the Steering Committee at its meeting on the 29th of June. That involves the action of the Steering Committee in which the text of the Maritime Safety Authority Law, with related papers, was tabled on the understanding that the Commission would be so informed, so that this resolution that is proposed by the Netherlands representative is accepting the report of the Steering Committee and approving its action. Is that correct?

DR. VAN GULIK: That is correct, Mr. Chairman.

GEN. MCCOY: The vote will be ayes and nays.

MR. BANERJI: Mr. Chairman, before you take the vote, may I know that this resolution is without prejudice to the right of any member to bring this subject up again at a later stage?

GEN. MCCOY: I would always, I think, agree with that general policy around the table.

MR. BANERJI: Thank you.

DR. KOO: Mr. Chairman, just a point of information: a favorable vote--an affirmative vote for this report does not mean to imply any approval of the maritime authority law itself--simply the approval of the report as it is worded.

GEN. MCCOY: The report that was tabled--approves tabling--is that your understanding?

DR. VAN GULIK: Exactly, Mr. Chairman. My proposal is only as regards the action of the Steering Committee and has nothing to do with the substance of the paper itself.

GEN. MCCOY: That is my understanding.

Will the United Kingdom please vote first?

MR. GRAVES: In favor of noting that the paper has been tabled, Mr. Chairman.

GEN. MCCOY: The Soviet representative?

MR. PANYUSHKIN: Against.

MR. JOVELLANOS: In favor.

MR. TAYLOR: In favor.

DR. VAN GULIK: In favor.

MR. BANERJI: Mr. Chairman, I am in favor of this motion but in doing so I would draw the attention of the Commission to the remarks made by the Indian delegation at the Steering Committee indicating the views of my Government on this question.

GEN. MCCOY: That will be made a matter of record, if you wish, in the minutes if you will check with the Secretariat.

MR. BANERJI: Yes, please.

MR. DOUTEAU: Mr. Chairman, we will abstain for the same reason that we abstained in the Steering Committee, that is, the French delegation mentioned that in its opinion it is very hard

to consider a fact as a matter for a policy decision. That is why we abstained in the Steering Committee; we shall have the same condition here in the Commission.

DR. KOO: In favor, without implying any opinion as regards the substance of the law itself.

MR. COLLINS: In favor, Mr. Chairman.

MR. HARRY: In favor, Mr. Chairman. We are of course maintaining the same position which we had in the Steering Committee on the substance of the paper and on the Soviet resolution.

GEN. MCCOY: The United States votes for the resolution.

MR. JOHNSON: Mr. Chairman, the voting was 9 in favor of accepting the report of the Steering Committee, 1 opposed, and 1 abstention. The motion was therefore carried.

GEN. MCCOY: The Chairman announces that the resolution submitted by the Netherlands representative was carried.

MR. PANYUSHKIN: Mr. Chairman, do you consider that this question is a procedural one?

GEN. MCCOY: Yes. It was simply acting on the adoption of a report of the Steering Committee.

MR. PANYUSHKIN: Mr. Chairman, can you indicate me any clause in the Terms of Reference for procedural matters a different system of voting exists--any clause to that effect in the Terms of Reference?

GEN. MCCOY: I shall have to have that repeated. I didn't get the gist of it.

MR. PANYUSHKIN: Is there any provision in the Terms of Reference which would indicate that for procedural matters a different voting principle than for matters of substance exists?

GEN. MCCOY: No, except that under the generally accepted parliamentary ruling the Chairman makes a decision ab initio whether it is a procedural or a policy paper or action.

MR. PANYUSHKIN: Mr. Chairman, I don't understand on what

grounds have you decided that this question is a procedural matter, and the second question of mine is on what grounds you approach your own point of view the results of voting? My opinion is that this document, the report of the Steering Committee, is not approved because the Soviet delegation voted against it. I should mention that the Soviet delegation does not object to taking off this question from the agenda of the Commission because there is no sense of any further discussion of this question since the law itself has already been put into effect. But the Soviet delegation is against the report of the Steering Committee on the grounds that the proposed Soviet draft resolution was not accepted. By the way, I should mention that the resolution proposed by the Soviet delegation was shared by many members of the Steering Committee. The draft was shared, so to say, by many members of the Steering Committee, not only because of the fact that the Supreme Commander had not consulted with the Far Eastern Commission before taking that action but also on the ground that some members of the Commission do not agree with the very substance of the law, as I understood from the statement made by the French representative this morning. Statements similar to the one made by the French representative were made at the Steering Committee and also at the Commission before. Therefore, I consider it improper if this question is considered as a secondary one or is regarded as one of procedure. In addition to that, I should mention that this distinction between matters of policy and matters of procedure is our own domestic custom inside the Commission.

GEN. MCCOY: I believe you asked me two questions about my ruling, didn't you?

MR. PANYUSHKIN: Yes.

GEN. MCCOY: First, will you please state them in particular?

MR. PANYUSHKIN: The first question, Mr. Chairman, is, why

have you declared this decision adopted against which proposal the Soviet delegation voted?

GEN. MCCOY: First, it is a statement of the Chairman as a matter of his opinion that this is a procedural question.

MR. PANYUSHKIN: Mr. Chairman, where is that provision in the Terms of Reference under which procedural matters should be voted in a different way from those of substance?

GEN. MCCOY: Well I'll have to take under advisement this question. It involves the precedent since the beginning of the Commission. I have had to make the ruling, I think, two or three times. Of course, any ruling that I make is subject to the action of the Commission.

Mr. Ambassador, and fellow members, I make the ruling, or the chair did make the ruling, under the general terms of reference No. 2 under Article V, Composition, where it states:

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

That is a policy and an action. I made the distinction, as Chairman, from the beginning that questions of routine--of procedure--would be decided by the Chair and if put to a vote by a majority vote. That has been the ruling in the committees and before the Commission. It seems to me this is plainly a procedural question. It hasn't anything to do with policy; it's simply the adoption of a report of the Steering Committee. However, I'm subject to the opinion of the Commission. I might add that the action, in my opinion, in no way commits the Soviet delegation. The question has been tabled and can be brought up at any time by any delegation.

MR. PANYUSHKIN: Mr. Chairman, my question pertained to the

substance of your own statement, that is, my question was, on what grounds did you consider this report adopted by the Commission? We don't consider it adopted.

Mr. Chairman, subparagraph 2 of paragraph V provides that:

"The Commission may take action by less than unanimous vote provided that action shall have the concurrence of at least a majority of all the representatives..."

that is to say that the Commission should follow this procedure considering any question---either one of substance or one of procedure. In the Terms of Reference there is no distinction given between the routine questions and questions of substance, and if by some chance this question had been a routine one it should have been voted on as any other question because there is no distinction given.

As to the question whether this is a routine matter or not, my opinion is that it is not a routine question but one of policy. Therefore, since I consider that this report was not adopted, I would ask that our own resolution be voted on, the resolution appearing in FEC-305/17, the last paragraph.

GEN. MCCOY: I am a little bit involved in my own mind. I want to make sure that we understand each other and that I don't act without full consideration of the points brought up.

I have nothing further to add on the subject of my ruling as a matter of the opinion of the Chairman. I base it on the generally accepted rulings under not only our Robert's Rules of Order but also under the two years and a half precedents, that the Commission has had time to fully consider the implications of the meaning of action and policy and substance of questions and matters of procedure. It has come up a number of times both in the committees and before the Commission, and I thought by this

time we had established a body of precedents that would be considered practical and acceptable. So that that is one point that I made--that I simply stand on, first, my opinion as Chairman but based on the precedents of the last two years and a half both in the Commission and in the committees. That is my answer to your further query.

MR. PANYUSHKIN: Mr. Chairman, I am afraid we are not here as an American court which would decide upon a case in accordance with some precedent. We are sitting here in an international commission. The responsibilities and duties of this Commission are provided for in the Terms of Reference of this body. It seems to me that what is required from us as members of this international commission is to follow strictly the spirit and letter of those Terms of Reference.

GEN. MCCOY: Yes, I agree with the Ambassador there.

MR. PANYUSHKIN: So I would ask that we act on the basis of the Terms of Reference and not on the ground of precedents. I am not sure whether such precedence to which you have referred has existed in the past--I am not inclined to look into that matter at the present--but what I am asking now our respectful Chairman, General McCoy, is that he follow the rules provided in our Terms of Reference, since my opinion is that the statement made by the Chairman when declaring the results of voting in effect violated the Terms of Reference of the Commission. Therefore, my request is that our own resolution be put to a vote. That is all I am asking, Mr. Chairman, that is to say, that the provisions of the Terms of Reference be followed by members of this Commission and by our Chairman.

GEN. MCCOY: Well the Chairman thinks he is following the Terms of Reference and that the precedents that he had reference to was built up on those Terms of Reference as an interpretation. Now, if the Ambassador wishes to take exception to my ruling--I am

only representing the Commission--and my judgment is of course subject to their action, so that if the Ambassador wants to make a point of my ruling I would be very glad to put it to the Commission. I would suggest, if the Ambassador feels that I have made the wrong ruling, he appeal against my ruling and I will put it to a vote.

MR. PANYUSHKIN: It seems to me that the Commission cannot decide on such questions. How could one appeal to the members of the Commission? The members of the Commission could not oppose the Terms of Reference or change the Terms of Reference. We are representatives of governments and we should follow this charter which was adopted by the governments concerned.

I should add, Mr. Chairman, that there is nothing about any precedents in the Terms of Reference mentioned. I am quite positive that no decision or action or resolution could be taken on the basis of precedents; they should be taken on the basis of the provisions of the Terms of Reference. This is why, Mr. Chairman, I introduce my resolution with a view to having it voted upon first.

DR. KOO: Mr. Chairman, I am afraid the situation appears to be rather confused. As I see it, your ruling was perfectly correct--it was a ruling on a question of procedure--and the paragraph to base your action upon is not paragraph 2 of Article V but paragraph 3 of Article VI. It says:

"The Commission shall organize its secretariat, appoint such committees as may be deemed advisable, and otherwise perfect its organization and procedure."

Now the Commission is master of its own procedure and it has been the practice of the Commission to leave the procedure to be ruled by the Chairman, and we have time and again left the ruling to the Chairman and so far we have never had an occasion to challenge the

Chairman's ruling.

And I say that your ruling was correct, Mr. Chairman, because the report itself for the action of the Commission amounts to what is simply to accept the report of the Steering Committee. That report did not make any recommendation at all; it simply reported what took place in the Steering Committee. Two things took place: first, that the Maritime Safety Authority Law was tabled in the Steering Committee by agreement of the Steering Committee, second, that the Soviet resolution proposed in the Steering Committee was defeated in the Steering Committee. The report simply contains those two facts and simply aims to inform the Commission of what took place in the Steering Committee and no more. So the Commission, in voting upon it by a vast majority in favor of it, merely accepted the report without the Commission itself defining its attitude toward any of the two points--toward either the Maritime Safety Authority Law itself or toward the Soviet resolution itself. So, so far as that phase is concerned, it seems to me that your ruling was sound and unless it is challenged--and, of course, any ruling of the Chairman could be challenged by the Commission and could be settled by a vote of the Commission--but from my point of view it seems to me your ruling was correct.

Now, having said that, I want to also add that that decision--not only that ruling of the Chairman but also the action of the Commission in accepting the report of the Steering Committee--does not in any way bind the Commission so far as its own attitude toward the Soviet resolution is concerned. It is perfectly free for the Soviet representative to move the consideration of his resolution and ask for action by the Commission on the resolution.

So the two points really do not conflict. So far as your ruling is concerned it seems to me that that is sound. That is done already and the next step, if the Soviet representative

would like to have his resolution considered, he can make a motion-- make a move for consideration in the Commission and that would be entirely separate from the report of the Steering Committee.

MR. HARRY: Mr. Chairman, I put forward these views with some diffidence as I am a newcomer to the Commission. I agree thoroughly with what Ambassador Koo has just said and would simply add this, that I think it would make it clearer perhaps to the Soviet representative that the Commission has not by its approval of the report taken any action in the sense of the Terms of Reference, if it could be understood that his resolution--he was free to submit his resolution in the Commission and that the Commission would then take action on it--either by deciding that it was not a suitable matter for discussion by the Commission as the previous question or by taking a straight vote on the resolution. I think that would then make it clear that your ruling was in effect correct, and that the approval of the report of the Steering Committee was not action in the sense of our Terms of Reference.

MR. PANYUSHKIN: Mr. Chairman, I still would like that my resolution be voted on.

GEN. MCCOY: Will you make a motion to that effect?

MR. PANYUSHKIN: Mr. Chairman, I move that the following resolution be adopted by the Commission:

"The Far Eastern Commission notes that the question of the establishment of a maritime police in Japan has been decided by the Headquarters of the Supreme Commander without prior consideration of this question by the Far Eastern Commission."

GEN. MCCOY: The motion has been made by the Soviet representative. Is there any further discussion desired? Are you ready for a vote, gentlemen? The vote will be by ayes and nays, and I will vote first this time as United States representative against

the Soviet resolution.

MR. HARRY: Abstain, Mr. Chairman.

MR. COLLINS: Abstain, Mr. Chairman.

DR. KOO: Abstain.

MR. DOUTEAU: Abstain.

MR. BANERJI: Abstain, Mr. Chairman.

DR. VAN GULIK: Against, Mr. Chairman, without any implication as to the general contents of the document.

MR. TAYLOR: Abstain, Mr. Chairman.

MR. JOVELLANOS: Abstain, Mr. Chairman.

MR. PANYUSHKIN: In favor.

MR. GRAVES: Abstain, Mr. Chairman.

MR. JOHNSON: Mr. Chairman, the resolution was lost because no majority was achieved.

GEN. MCCOY: Would you announce the vote, please?

MR. JOHNSON: One vote in favor; 2 votes against; 8 abstentions.

MR. PANYUSHKIN: Mr. Chairman--

GEN. MCCOY: The chair declares the motion lost.

MR. PANYUSHKIN: Mr. Chairman, I would like to make a statement on behalf of the Soviet delegation which statement I would like to have recorded in the minutes of this meeting.

"Mr. Chairman, in view of the fact that the Maritime Safety Authority Law has already been passed by the Japanese Diet and has gone into effect, the delegation of the Soviet Union does not insist on a further consideration by the Commission of SC-305/1. However, the Soviet delegation notes that the question of the maritime police has been decided by the Headquarters of the Supreme Commander without prior consideration of this question by the Far Eastern Commission."

GEN. MCCOY: That will be made a matter of record in the minutes.

ITEM 8 - PORT AND SERVICE CHARGES ON FOREIGN VESSELS IN JAPAN
(FEC-304/16; T-036, 304 series)

GEN. MCCOY: FEC-304/16 is a proposed policy decision approved by the Steering Committee at its meeting on the 29th of June by a vote of 5 to 2. The United Kingdom and the United States members opposed the paper and the Canadian, French, New Zealand, and Philippine members abstained. The substance of the proposal was also inserted as an amendment to the paper on conduct of trade (SC-272/13) which is still pending before the Steering Committee, and the United States representative requested postponement until the latter paper should be forwarded to the Commission. That is still the state of affairs. In the meantime I think the United States has circulated its position on the other paper to the Steering Committee. Is that the fact?

DR. BLAKESLEE: It was circulated yesterday afternoon and this morning.

GEN. MCCOY: And it will be for the information of the Steering Committee?

DR. BLAKESLEE: Yes, Mr. Chairman.

GEN. MCCOY: Item 8 will be retained on the agenda under those conditions.

ITEM 9 - OTHER BUSINESS

a. Letter of acknowledgment from Mrs. Manuel Roxas

GEN. MCCOY: Will you read the letter from the Philippines?

MR. JOHNSON: Mr. Chairman, the following is the text of a letter dated April 29, 1948, from "Malacanan Palace" in Manila:

"My dear General McCoy:

"Mrs. Manuel Roxas directs me to express her grateful acknowledgment of your kind statement of tribute and sympathy before the Far Eastern Commission, transmitted by General Romulo, on the occasion of the passing of the late President.

She and her family find great comfort in your words which graciously reflect the high regard and affection expressed in many quarters for the great Filipino leader. She would request that her deepest appreciation be conveyed to the members of the Far Eastern Commission.

Sincerely yours,

s/ Federico Mangahas
t/ FEDERICO MANGAHAS
Private Secretary
to the President"

b. Australian Statement on Commission Summer Schedule

MR. HARRY: Mr. Chairman, I want to refer to the decision taken at the last meeting of the Commission, that the Commission should go into recess for a period of five weeks subject to the call of the Chairman. I have been instructed by my Government to express the hope that all delegations will in effect maintain available for the work of the Commission at short notice representatives who can attend the meetings. My Government feels that it would be unfortunate if the impression should be gained by the public that the Commission had completely suspended its activities for a period of five weeks, and I have therefore been asked to make this statement and express the hope that there will be delegates available for meetings, should they be required.

GEN. MCCOY: Well I think certainly on behalf of the Secretariat and the United States that I can reassure the Australian delegate as to that matter, and I would hope that I can speak in like manner for the other members of the Commission.

MR. HARRY: Thank you, Mr. Chairman.

GEN. MCCOY: We will stand adjourned.

(The meeting adjourned at 12:30 P.M.)