

FEC-CONFIDENTIAL

MR. NAGGIAR stated that when the Soviet motion should come to a formal vote, he would oppose it on the understanding that the text of paragraph 13 would remain in the form shown in FEC-017/17, rather than in the form which General McCoy had suggested as an alternative to the Soviet amendment, but which had not been acceptable to the Soviet representative. Furthermore, Mr. Naggiar wished to reserve his right subsequently to propose an amendment to FEC-017/17.

MR. PANYUSHKIN thanked the French representative for the second to his motion. However, he wished to make it clear that he did not consider a second to be necessary in order for a vote on his motion to take place. There should be no rule, he said, by which the democratic freedom of discussion in the Commission would be restricted.

GENERAL MCCOY said that he would accept the Soviet reservation with regard to procedure but that he would put the Soviet motion to a vote as a motion which had been seconded.

The COMMISSION was polled on the Soviet motion to amend paragraph 13 of FEC-017/17, and the motion was lost by a vote of 10 to 1 (U.S.S.R.)

The COMMISSION unanimously agreed to postpone further consideration of this subject until its next meeting on the following day, 5 February 1948.

ITEM 3 - ATTENDANCE AT INTER-GOVERNMENTAL CONFERENCES (FEC-236/10, 30-236/8; 236 series)

There was no consideration of this subject.

ITEM 4 - a STATEMENT BY THE UNITED STATES REPRESENTATIVE OF THE FAR EASTERN COMMISSION ON REPARATIONS SHARES (FEC-278)

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

There was no consideration of this subject.

ITEM 5 - a RESTITUTION OF LOOTED PROPERTY (FEC-011/40, - 011/42; -011/12, -/21, -/32 through -/39)

b RESTITUTION OF LOOTED PROPERTY: NETHERLANDS SUBSTITUTE (FEC-011/43)

There was no consideration of this subject.

ITEM 6 - ADVANCE TRANSFERS OF JAPANESE REPARATIONS (FEC-201/1)

There was no consideration of this subject.

ITEM 7 - OTHER BUSINESS

Discussion of Unauthorized Publication of Commission Activities

MR. PANYUSHKIN made the following statement:

"Several articles have recently been published in the American press, in which attempts are made to deal with the work of the Far Eastern Commission. For example, on 30 January the 'Washington Daily News' published an article by William Simms under the heading 'Soviet Policy ~~Toward~~ ^{on} Japan' and on 2 February the 'Newsweek' magazine published an article by Edward Weintal under the heading 'The Kremlin Gets Tough'.

"In these articles the authors quite incorrectly, tendenciously and in a distorted form describe both the course of the discussion of questions at the last four meetings of the Far Eastern Commission and the positions of particular countries on such questions. Especially tendenciously and incorrectly they

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describe the position of the Soviet Delegation at the said meetings.

"The Soviet Delegation considers that the world's public opinion should not remain misinformed as a result of the publication of the above mentioned articles. The Far Eastern Commission must correct this situation and publish materials showing the real situation that took place in the course of the consideration of questions at its recent meetings, as well as materials showing the positions of particular countries.

"Proceeding from the above, the Soviet Delegation proposes:

"1. That the Far Eastern Commission ~~instruct~~ ^{request} the Chairman together with representatives of the interested countries, to prepare for the Commission's meeting (12 February 1948) the text of a reportation in which the real course of consideration of questions at the recent meetings of the Commission should be fully recounted.

"2. That the Chairman be ~~instructed~~ ^{requested} to conduct an investigation of the fact of leakage of confidential information of the Far Eastern Commission to persons not connected with the work of the Commission."

GENERAL MCCOY invited attention to a statement which he had released to the press on 30 January and which had been circulated to the Commission. This press statement had been prepared immediately upon his learning of the NEWSWEEK article. He then made the following additional remarks with regard to the NEWSWEEK article:

"The article is inaccurate and misleading. I much regret its publication, especially since the article is evidently based in some part on information which must have been given directly, or indirectly, to a member of the press by someone who was present in one or more recent meetings of the Commission.

"I am authorized by my Government to state that it also deeply regrets this publication and that it has no information or indication as to the source of the leak.

"As soon as my attention was called to this issue of Newsweek, I prepared a press release which pointed out the inaccurate and misleading character of the article, and which the Secretariat distributed to the members of the Commission.

"As I have stated a number of times, the Far Eastern Commission, during its two years, has had a good record in regard to the security of its proceedings and its confidential documents. This generally good record makes this present leak increasingly regrettable.

"The main point of the article is that there has recently been a striking change in both the official and personal relations between members of the Commission. I am aware of no such change. From the beginning of the Far Eastern Commission until today, each member and each assistant has earnestly and to the best of his ability, yet with all courtesy, supported and advocated the views of his Government. From the beginning of the Far Eastern Commission until today, each member and each assistant has had noticeably pleasant personal relations with the other members and assistants. I expect these relations, both professional and personal, to continue unchanged.

"The only lesson from this regrettable incident is that each person who attends a Commission meeting or who has any responsibility for a confidential FEC document should exercise increasing vigilance to safeguard the security of FEC confidential material, both oral and written."

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With regard to the request of the Soviet representative that a statement refuting recent press accounts and presenting a true account of Commission proceedings be prepared, GENERAL McCOY said he felt that the press statement which he had issued would meet the Soviet viewpoint, and he drew attention to the fact that at least one responsible newspaper, The New York Times had reported on his press release on 31 January.

MR. PANYUSHKIN said that he did not consider General McCoy's press statement to have been entirely sufficient since it had been released prior to some of the stories which had appeared in the press. Furthermore, he considered it absolutely necessary that a full and accurate statement concerning recent proceedings within the Commission be prepared and released to the press. Such a statement he felt was necessary in order, among other things, to correct the erroneous account of the Soviet position which had been given.

GENERAL McCOY said that he would consult with representatives on the suggestions made by Mr. Panyushkin and he hoped that Mr. Panyushkin would himself be in a position to submit a formal proposal along the lines he had in mind.

ITEM 8 - PRESS RELEASE

The COMMISSION unanimously agreed that the Secretary-General should prepare a statement embodying representatives' tributes to Mahatma Gandhi for release to the press.

The meeting adjourned at 1 P. M.

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COPY NO. _____

FEC--CONFIDENTIALMINUTES--91st FEC Mtg.5 February 1948FAR EASTERN COMMISSION

Minutes of the Ninety-First Meeting of the Far Eastern Commission,
Held in the Main Conference Room, 2516 Massachusetts Avenue, N.W.,
Washington, D. C.
5 February 1948, 10:30 A. M.

REPRESENTATIVES PRESENT

Major General Frank R. McCoy (United States) Chairman
Mr. A. Stirling (Australia)
Mr. R. E. Collins (Canada)
His Excellency Dr. V. K. Wellington Koo (China)
Dr. S. H. Tan
His Excellency Mr. Paul E. Naggiar (France)
Mr. S. N. Banerji (India)
Mr. O. Reuchlin (Netherlands)
Mr. G. R. Powles (New Zealand)
Mr. J. U. Jovellanos (Republic of the Philippines)
His Excellency Mr. A. S. Panyushkin (U.S.S.R.)
Mr. H. A. Graves (United Kingdom)

SECRETARY GENERAL

Mr. Nelson T. Johnson

NOTE: 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.

Minutes--91st FEC Meeting

COPY NO. 183FEC-CONFIDENTIAL17 February 1948FAR EASTERN COMMISSIONCORRIGENDUMTOMINUTES OF THE NINETY-FIRST MEETING OF THE
FAR EASTERN COMMISSIONNote by the Secretary General

1. The Far Eastern Commission, at its ninety-second meeting, 12 February 1948, unanimously approved the minutes of its ninety-first meeting with the following correction, requested by the Chinese Representative:

Page 3, insert the following as a separate paragraph immediately before the last full paragraph:

"DR. TAN stated that the Chinese delegation had refrained from exercising its privilege to vote for or against the motion; in other words, it had abstained."

2. All Representatives are requested to note the above amendment in their copies of the minutes of the ninety-first meeting of the Far Eastern Commission.

NELSON T. JOHNSON
Secretary General

SUMMARY--FECFEC--CONFIDENTIALSUMMARY - 91st FEC Mtg.5 February 1948FAR EASTERN COMMISSIONSUMMARY OF MINUTES OF 91st MEETINGITEM 1 - APPROVAL OF THE MINUTES OF THE NINETIETH MEETING

Amended and approved.

ITEM 2 - PROHIBITION OF MILITARY ACTIVITY IN JAPAN AND DISPOSITION OF JAPANESE MILITARY EQUIPMENT (FEC-017/17, FEC-017/19)

Soviet motion to delete phrase "after examination" in paragraph 6 of FEC-017/17 lost because of lack of support by China, U.K., and U.S. Soviet proposal to amend paragraph 9 lost for lack of a second and declared withdrawn by Soviet representative.

ITEM 3 - ATTENDANCE AT INTER-GOVERNMENTAL CONFERENCES (FEC-236/10 SC-236/8; 236 series)

Postponed.

ITEM 4 - a STATEMENT BY THE UNITED STATES REPRESENTATIVE OF THE FAR EASTERN COMMISSION ON REPARATIONS SHARES (FEC-278)b REPORT OF COMMITTEE NO. 1 TO THE FAR EASTERN COMMISSION REGARDING DIVISION OF REPARATIONS SHARES (FEC-219/25; 219 series)

Postponed.

ITEM 5 - a RESTITUTION OF LOOTED PROPERTY (FEC-011/40, -/42; -/12, -/21, -/32 through -/39)b RESTITUTION OF LOOTED PROPERTY: NETHERLANDS SUBSTITUTE (FEC-011/43)

Postponed.

ITEM 6 - ADVANCE TRANSFERS OF JAPANESE REPARATIONS (FEC-201/1)

Postponed.

ITEM 7 - OTHER BUSINESS

Ad hoc subcommittee of the whole appointed to draft statement on unauthorized publication of FEC business.

ITEM 8 - PRESS RELEASE

None.

Summary--Minutes, 91st FEC Mtg.

FEC--CONFIDENTIALITEM 1 - APPROVAL OF THE MINUTES OF THE NINETIETH MEETING

MR. JOHNSON said that the Soviet delegation had requested that the following changes be made in the minutes of the ninetieth meeting:

Page 5, line 3: Substitute "to disarm and disband" for "to disband and dismiss".

Page 5, paragraph 3, line 4: Delete "with necessary documents, such as railroad tickets to their homes" and substitute "with necessary civilian documents, equally with other inhabitants of Japan".

Page 8, item 7 of agenda, penultimate paragraph, fifth line: Delete "toward" and substitute "on".

Page 9, first full paragraph, item 1: Delete "instruct" and substitute "request".

Page 9, item 2: Delete "instructed" and substitute "requested".

MR. POWLES requested that the second sentence, beginning in the third line of the first full paragraph on page 5, be changed to read:

"It was apparent that a repatriated prisoner of war upon arrival in Japan was, according to the Soviet use of the term, a demobilized soldier."

DR. KOO requested that the phrase "in paragraph 6" be inserted before the words "on page 5" in the third paragraph on page 2.

THE COMMISSION unanimously approved the minutes of its ninetieth meeting with the above changes.

ITEM 2 - PROHIBITION OF MILITARY ACTIVITY IN JAPAN AND DISPOSITION OF JAPANESE MILITARY EQUIPMENT (FEC-017/17, FEC-017/19)

THE COMMISSION resumed consideration of FEC-017/19, proposed Soviet amendments to FEC-017/17, Prohibition of Military Activity in Japan and Disposition of Japanese Military Equipment.

GENERAL McCOY summarized the discussion which had taken place on the various amendments proposed by the Soviet delegation, and enumerated the following points in connection with each of them.

Paragraph 2 a: Tentative agreement (page 4, Minutes, 87th Mtg.) to retain paragraph as worded in FEC-017/17, with a provision that the Soviet understanding of term "and other small arms" be attached to the policy decision. French representative stated his intention at this time to abide by his proposal (paragraph 2 of cover sheet of FEC-017/19) on this paragraph if remaining Soviet amendments failed of adoption. Some clarification of meaning of "attached to" would probably be required. No vote had been taken.

Paragraph 6: Soviet proposals either to insert termination date or to delete "after examination" unacceptable to United States (page 6, Minutes, 88th Mtg.) No vote had been taken.

Paragraph 9: Termination date generally unacceptable (page 7, Minutes, 88th Mtg.) No vote had been taken.

Paragraph 10: Amendment lost (page 2, Minutes, 89th Mtg.) by a vote of 8 to 1. The Soviet representative had stated his intention to press for the adoption of a substitute amendment (page 3, Minutes, 89th Mtg.):

"The demobilization agencies should be dissolved and their functions of repatriation of Japanese prisoners of war will be transferred to a civilian agency."

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Paragraph 13: Amendment lost (page 8, Minutes, 90th Mtg.) by a vote of 10 to 1.

The French representative, GENERAL McCOY noted, had indicated his intention of proposing a further amendment when the above amendments had finally been disposed of.

Paragraph 6: MR. PANYUSHKIN said, in connection with General McCoy's summary of recent discussion, that he understood there was one further outstanding point in connection with paragraph 6. He pointed out that at the 88th meeting (page 6, Minutes, 88th FEC Mtg.) further consideration of the Soviet amendment and of alternatives which had been proposed had been postponed to enable the Chairman to seek further instructions from his Government.

GENERAL McCOY replied that he had discussed this paragraph further with his Government and had been authorized, as a further effort to find a basis for agreement, to agree to the deletion of the words "after examination" provided paragraph 6 were amended to include an additional subparagraph to be designated subparagraph a and to read "Unique and new development items and plans desired for examination or research;". The present subparagraphs a and b would become b and c respectively. He observed that this suggested revision of subparagraph a embodied the wording upon which general agreement had formerly existed (FEC-017/5).

MR. NAGGIAR expressed support for the revision just suggested by General McCoy. He pointed out that he had himself urged (pages 5 and 6, Minutes, 88th Mtg.) that this wording which had originally been used in FEC-017/5 be restored. Such a change, he felt, would contribute greater clarity to the paragraph and he was glad to see that his suggestion had found favor with the United States delegation.

MR. PANYUSHKIN pointed out that FEC-084/21, Reduction of Japanese War Potential, approved by the Commission on 18 August 1947 as a policy decision, had, in its early draft stages, provided for the exception from destruction of primary and secondary war facilities which were "unique and new development items desired for examination or research". During the course of discussion, however, the Commission had recognized that such exceptions were not desirable and had deleted them before adoption of the policy decision. It seemed obvious to him that the same reasons which had led to the deletion of the phrase in this previous case were applicable to the present paper. Furthermore, he did not think that the addition of the phrase suggested by General McCoy in any way improved the wording of the paragraph, and would indeed greatly complicate the provision. The question upon which he was anxious to secure a clear expression was whether the United States delegation could accept the deletion of the words "after examination" since, if such a deletion, without any other change in the wording of paragraph 6 of FEC-017/17 were acceptable, he could withdraw the amendment proposed to the paragraph in FEC-017/19.

GENERAL McCOY said that it would not be acceptable to the United States delegation simply to delete the words "after examination".

MR. PANYUSHKIN then formally moved that paragraph 6 of FEC-017/17 be amended by the deletion of the phrase "after examination".

No second to this motion was offered and GENERAL McCOY accordingly said that, in the absence of a second, he would declare Mr. Panyushkin's motion lost.

MR. PANYUSHKIN said that he could not agree that any second to a motion was necessary in order to bring it to a vote. No international organization required a second for a vote and, since the Commission was relying only on its own internal custom in requiring seconds, and not on any formal rules which it had adopted, he would renew his suggestion made

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at the previous meeting (pages 5 and 6, Minutes, 90th FEC Meeting) that the practice be dropped. He pointed out that on two occasions his motions had been seconded and the seconders themselves had voted against the motions. This seemed to him to demonstrate the illogical position of anyone favoring the requirement for a second. He thought that the representative of any member government should have an unqualified right not only to raise a question for discussion but to propose a vote on the question, and he observed that not the least of the advantages of such a procedure would be the saving in time. He felt therefore that his motion to amend paragraph 6 should be put to a vote whether it was seconded or not and that, in general, the practice of requiring seconds should be dropped.

GENERAL McCOY said that no complete code of rules had ever been adopted by the Commission and that rulings had been required on very few points of order. Therefore, it had been his practice as Chairman not to insist on strict rules of order regarding discussion but to allow any member to place any subject on the agenda for discussion without requiring a motion or a second. However, he had required a motion and a second to bring any question to a vote. While he could agree that the same procedure was not followed in all international conferences, he did not wish to change the Commission's practice at the request of only one representative. He would, however, follow the wishes of the Commission on procedure.

MR. POWLES remarked that he had not immediately seconded the Soviet motion because he had not understood that it was for the deletion of the words "after examination". Realizing the true nature of the motion, he said that it was in accordance with the view consistently held by his delegation. He therefore seconded the Soviet motion.

THE COMMISSION voted on the motion to delete the words "after examination" in paragraph 6 of FEC-017/17 as follows:

UNITED KINGDOM: Against.

U.S.S.R.: For.

PHILIPPINE REPUBLIC: Abstain.

NEW ZEALAND: For.

NETHERLANDS: For.

INDIA: Against.

FRANCE: For.

CHINA: Abstain.

CANADA: Abstain.

AUSTRALIA: For.

UNITED STATES: Against.

GENERAL McCOY declared the Soviet motion lost because of the absence of the concurring votes of the United States, United Kingdom, and China, required under paragraph V, 2 of the Terms of Reference.

Dr. Jan stated that the Chinese delegation had refrained from exercising its privilege to vote for or against the motion; in other words, it abstained.

MR. NAGGIAR asked whether the Chinese abstention should be construed as an exercise of the veto, or whether it should be understood that only two Governments, the United Kingdom and the United States, had exercised the veto in this instance.

GENERAL McCOY said that he would interpret an abstention from voting

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on the part of a veto power as, in effect, an exercise of the veto, since the Terms of Reference of the Commission provided (paragraph V, 2) 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 including the representatives of the four following Powers: United States, United Kingdom, Union of Soviet Socialist Republics and China."

In any event, GENERAL McCOY remarked, the present motion was lost since at least two of the veto Powers had voted against it.

Paragraph 9:

MR. PANYUSHKIN said that since the Soviet proposed amendment to paragraph 9 of FEC-017/17 had been discussed without a decision being reached, he was desirous that the opinion of the Commission be registered in a formal vote. However, in the hope that it would afford a basis for agreement, he was prepared to extend the period of time referred to in his amendment to six months, and he accordingly moved that paragraph 9 be amended by the insertion, after the words "subsequent destruction" of the words "within a three-six month period after the adoption by the Far Eastern Commission of this document".

DR. TAN asked whether there was any likelihood of the completion of the whole process of demobilization within six months.

GENERAL McCOY said that at the present time it was not likely that anyone could tell the answer to Dr. Tan's question. There was great uncertainty, he said, as to when the seven to eight hundred thousand Japanese prisoners of war still to be repatriated would have been returned to Japan. The matter involved was one of implementation concerning which it was impossible for the Commission to foresee developments and was very definitely the kind of subject that should be left in the hands of the Supreme Commander, the executive authority in Japan, who was manifestly doing everything possible to achieve the very objectives envisaged by the proposed amendment.

MR. JOVELLANOS said that it should be borne in mind that paragraph 9 referred only to records of persons already demobilized. No proper purpose, he thought, could be served by the retention of such records.

MR. POWLES said that while the New Zealand delegation did not, as a matter of principle, favor the setting of a time limit on the completion of any phase of implementation by the Supreme Commander, there would not appear to be any valid reason for the preservation of the records of demobilized persons.

GENERAL McCOY agreed that no one on the Commission was in a position to know of reasons for the preservation of the records in question. However, the implementing authority in Japan might very well have excellent reasons for not destroying such records on or before any given date. It was perfectly clear to him that any attempt by the Commission to incorporate such details in its policy decisions constituted an intrusion on the field of responsibility of the Supreme Commander.

MR. GRAVES said that paragraph 9 of FEC-017/17 must be construed as having continuing application, although, from its wording it might at first appear to apply only to the records of personnel demobilized as of the present moment. However, if the Soviet amendment were adopted, there would be no policy provision for the subsequent destruction of records of repatriated soldiers returned to Japan after the six months' period.

GENERAL McCOY asked whether there was a second to the Soviet motion for the amendment of paragraph 9. There being none, he declared the motion lost.

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MR. PANYUSHKIN said that he did not feel that there had been adequate discussion of his proposal regarding paragraph 9. He agreed with the observation of Mr. Jovellanos that the paragraph referred to persons already demobilized and who had not yet been repatriated.

MR. PANYUSHKIN said that in view of the apparent opposition to his proposed amendment to paragraph 9, he would, in order to expedite adoption of the whole paper, withdraw his motion. He reiterated his view that no second was necessary to bring a motion to a vote.

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

ITEM 3 - ATTENDANCE AT INTER-GOVERNMENTAL CONFERENCES (FEC-236/10, SC-236/8; 236 series)

There was no consideration of this subject.

ITEM 4 - a STATEMENT BY THE UNITED STATES REPRESENTATIVE OF THE FAR EASTERN COMMISSION ON REPARATIONS SHARES (FEC-278)

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

There was no consideration of this subject.

ITEM 5 - a RESTITUTION OF LOOTED PROPERTY (FEC-011/40, -/42, -/12, -/21, -/32 through -/39)

b RESTITUTION OF LOOTED PROPERTY: NETHERLANDS SUBSTITUTE (FEC-011/43)

There was no consideration of this subject.

ITEM 6 - ADVANCE TRANSFERS OF JAPANESE REPARATIONS (FEC-201/1)

There was no consideration of this subject.

ITEM 7 - OTHER BUSINESS

Discussion of Unauthorized Published Reports of Commission Activities

MR. PANYUSHKIN said that he and the Chairman had had a further discussion of the articles in the "Washington Daily News" of 30 January and in "Newsweek" Magazine of 2 February, along the lines which he had proposed at the meeting of the day before (pages 8 to 10, Minutes, 90th FEC Mtg.) He now had the impression that General McCoy had no objection to his proposal that a statement be prepared in refutation of these distorted and tendentious news accounts.

MR. PANYUSHKIN said that he and General McCoy had agreed that an ad hoc subcommittee should be appointed to prepare a draft of the statement. It had been his suggestion that the Chairman himself preside over this ad hoc committee, but General McCoy had not agreed with the suggestion. Therefore, since he felt that for the purpose in mind either the Chairman or the Secretary General should preside, MR. PANYUSHKIN suggested that the latter official act as Chairman of the ad hoc committee. While the Soviet delegation would of course wish to be represented on the committee it did not wish to fill the position of chairman.

GENERAL MccOY said that he was very sympathetic with the views of Mr. Panyushkin on the subject of the leakages of information to which reference had been made. He was therefore perfectly willing, with the approval of

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the Commission, to appoint an ad hoc committee of the whole with the Secretary General as chairman to draft a statement for release to the press which would more adequately meet the situation than had his own statement of 30 January.

MR. GRAVES said that he too felt great sympathy for Mr. Panyushkin's position regarding any misrepresentations concerning the Soviet Government or delegation which had appeared in the press. He pointed out, however, that all participants in international bodies were subject to misrepresentation in the press and in fact experienced it rather frequently. United Kingdom representatives, however, in cases when their positions had been misrepresented, did not feel entitled to go before international bodies and request exoneration of statements which might have appeared in the press. Therefore, if it were now contemplated that the Commission should prepare such a statement mainly because of misrepresentation of the Soviet position, he would have to seek instructions from his Government with regard to the issuance of such a statement in the name of the Commission. He would not object to attending meetings of the ad hoc committee during its preliminary discussion of such a statement, but would have to reserve his position regarding possible action to be taken on it.

GENERAL McCOY said that if there were no objection he would request the Secretary General to convene the ad hoc subcommittee of the whole for the purpose of preparing a statement along the lines which had been indicated for the consideration of the Commission at its next meeting.

ITEM 8 - PRESS RELEASE

THE COMMISSION unanimously agreed that no statement regarding the foregoing proceedings should be released to the press.

The meeting adjourned at 12:55 P.M.

COPY NO. 178FEC--CONFIDENTIALMINUTES--92nd FEC Mtg.12 February 1948FAR EASTERN COMMISSION

Minutes of the Ninety-second Meeting of the Far Eastern Commission,
Held in the Main Conference Room, 2516 Massachusetts Avenue, N. W.,
Washington, D. C.
12 February 1948, 10:30 A.M.

REPRESENTATIVES PRESENT

Major General Frank R. McCoy (United States) Chairman
Mr. H. W. Bullock (Australia)
Mr. R. E. Collins (Canada)
His Excellency Dr. V. K. Wellington koo (China)
His Excellency Mr. Paul E. Naggiar (France)
Mr. S. N. Banerji (India)
Mr. O. Reuchlin (Netherlands)
Mr. G. R. Powles (New Zealand)
Mr. J. U. Jovellanos (Republic of the Philippines)
His Excellency Mr. A. S. Panyushkin (U.S.S.R.)
Mr. J. F. Ford (United Kingdom)

SECRETARY GENERAL

Mr. Nelson T. Johnson

NOTE: 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.

Minutes--92nd FEC Mtg.

SUMMARY--FECFEC--CONFIDENTIALSUMMARY - 92nd FEC Mtg.12 February 1948FAR EASTERN COMMISSIONSUMMARY OF MINUTES OF 92nd MEETINGRevision of Agenda

Agreed to consider Item 3, Prohibition of Military Activity in Japan and Disposition of Japanese Military Equipment, as Item 2.

ITEM 1 - APPROVAL OF THE MINUTES OF THE NINETY-FIRST MEETING

Amended and approved.

ITEM 2 - PROHIBITION OF MILITARY ACTIVITY IN JAPAN AND DISPOSITION OF JAPANESE MILITARY EQUIPMENT (FEC-017/17, FEC-017/19)

Approved by an affirmative vote of 10, with Soviet representative abstaining.

ITEM 3 - REPORT OF THE AD HOC DRAFTING SUBMITTEE ON A PRESS STATEMENT (FEC-296)

Postponed.

ITEM 4 - ATTENDANCE AT INTER-GOVERNMENTAL CONFERENCES (FEC-236/10, SC-236/8; 236 series)

Postponed.

ITEM 5 - a STATEMENT BY THE UNITED STATES REPRESENTATIVE OF THE FAR EASTERN COMMISSION ON REPARATIONS SHARES (FEC-278)b REPORT OF COMMITTEE NO. 1 TO THE FAR EASTERN COMMISSION REGARDING DIVISION OF REPARATIONS SHARES (FEC-219/25, 219 series)

Postponed.

ITEM 6 - a RESTITUTION OF LOOTED PROPERTY (FEC-011/40, -/42, -/12, -/21, -/32 through -/39)b RESTITUTION OF LOOTED PROPERTY: NETHERLANDS SUBSTITUTE (FEC-011/43)

Postponed.

ITEM 7 - ADVANCE TRANSFERS OF JAPANESE REPARATIONS (FEC-201/1)

Postponed.

ITEM 8 - OTHER BUSINESS

None.

ITEM 9 - PRESS RELEASE

Text of FEC-017/17, Prohibition of Military Activity in Japan and Disposition of Japanese Military Equipment, to be released to press in normal course.

Summary--Minutes, 92nd FEC Mtg.

FEC--CONFIDENTIALREVISION OF AGENDA

At the request of the Soviet representative, THE COMMISSION unanimously agreed to revise its agenda making Item 3, Prohibition of Military Activity in Japan and Disposition of Japanese Military Equipment, become Item 2.

ITEM 1 - APPROVAL OF THE MINUTES OF THE NINETY-FIRST MEETINGa Soviet Comments

MR. PANYUSHKIN referred to the statement by General McCoy at the bottom of page 4 of the minutes of the ninety-first meeting to the effect that since there was no second to a Soviet motion to amend paragraph 9, he would declare the motion lost. MR. PANYUSHKIN said that it had not been his understanding that General McCoy had declared the motion lost. If he had so understood, he would not have made his own subsequent remarks (page 5, Minutes, 91st Mtg.) to the effect that "he would, in order to expedite adoption of the whole paper, withdraw his motion". It was clear that a motion could not be both lost and withdrawn. If the Chairman wished to stand on the statement attributed to him that the motion was lost, then MR. PANYUSHKIN would prefer to withdraw his statement to the effect that the motion was withdrawn. He suggested that the statement of General McCoy to which he had referred (last paragraph, page 4, Minutes, 91st FEC Mtg.) be amended to read:

"GENERAL McCOY asked whether there was a second to the Soviet motion, so that the motion could be put to a vote."

GENERAL McCOY asked whether the issue being raised by Mr. Panyushkin had to do with the factual accuracy of the minutes or with the validity of the Chairman's ruling on the necessity for a second in order to bring a motion to a vote. MR. PANYUSHKIN replied that he was raising the issue of the accuracy of the minutes, since he had not understood that General McCoy had declared his motion lost.

GENERAL McCOY said that he considered the remarks attributed to him to be a correct representation of what he had said, and he asked Mr. Panyushkin whether his statements had been correctly reported.

MR. PANYUSHKIN replied that his remarks themselves were correctly represented, but that, as he had said, he had not realized that General McCoy had declared the Soviet motion lost. He would therefore agree that the wording of the minutes remain unchanged, and that the present discussion be included in the record of the present meeting.

b United Kingdom Comments

MR. FORD referred to the declaration by General McCoy (page 3, Minutes, 91st FEC Mtg.) with regard to the motions to delete the words "after examination" in paragraph 6 of FEC-017/17. General McCoy was recorded as follows:

"GENERAL McCOY declared the Soviet motion lost because of the absence of the concurring votes of the United States, United Kingdom, and China, required under paragraph V, 2 of the Terms of Reference."

MR. FORD said that it was the view of the United Kingdom delegation that this motion had been lost because there was not a concurrence of at least a majority of all the representatives, rather than for the reason as stated by General McCoy. It was the United Kingdom view that the Terms of Reference require that any motion, to succeed, should have the affirmative support of at least six members of the Commission, including the concurrence

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of four specified members. In the vote taken on the motion referred to there had been only five representatives in favor of the motion, and it was therefore the view of the United Kingdom delegation that the motion had failed for that reason.

c Chinese Correction

DR. KOO requested that the following statement be incorporated in the minutes of the ninety-first meeting on page 3 immediately before the remarks attributed to Mr. Naggiar in the last full paragraph:

"DR. TAN stated that the Chinese delegation had refrained from exercising its privilege to vote for or against the motion; in other words, it had abstained."

THE COMMISSION unanimously approved the minutes of its ninety-first meeting with the change requested by Dr. Koo and with the understanding that the Soviet and United Kingdom remarks should be recorded in the present minutes.

ITEM 2 - PROHIBITION OF MILITARY ACTIVITY IN JAPAN AND DISPOSITION OF JAPANESE MILITARY EQUIPMENT (FEC-017/17, -/19)

THE COMMISSION resumed consideration of this subject as follows:

Paragraph 2 a:

GENERAL McCOY recalled that, at the 87th meeting of the Commission (page 4, Minutes) the Soviet representative had stated that he would be willing to retain this paragraph as worded in FEC-017/17 provided that a statement of the Soviet understanding of the term "and other small arms" be attached to the policy decision.

If there were no objection, GENERAL McCOY said, the Soviet proposal would be handled in accordance with normal Commission procedure. GENERAL McCOY said that he realized that Mr. Panyushkin had not had an opportunity to familiarize himself with the normal Commission procedure in forwarding such statements of understanding to the Supreme Commander. He therefore requested the Secretary General to explain just what was meant by the normal procedure in question.

MR. JOHNSON offered the following statement with regard to normal procedure concerning statements of understanding by delegations with regard to policy decisions.

"When the Commission passes policy decisions, the Secretary General sends certified copies to the Secretary of State. Then, in accordance with the Terms of Reference of the Commission, the United States Government prepares directives in accordance with the policy decisions of the Commission and transmits these directives to the Supreme Commander through the appropriate United States Government agency.

"In a number of instances representatives have made statements of the interpretation or explanation of their governments in regard to certain parts of the paper or as to the paper as a whole. These statements have normally been forwarded by the Secretary General to the Secretary of State for 'transmission to the Supreme Commander for his information'. These statements have been termed 'excerpts from the minutes of the Commission'.

"For example, the Secretary General on June 6, 1946, forwarded to the Secretary of State a policy decision, 'Aliens in Japan' (FEC-034/2). The Secretary General added: 'I am also enclosing for your information an excerpt from the minutes of the fourteenth

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meeting of the Commission including a statement made by the representative of the Union of Soviet Socialist Republics in connection with the approval of his Government of the enclosed policy'.

"In accordance with this normal procedure, in case this pending draft policy decision should be approved by the Commission, the Secretary General, if there is no objection will forward to the Secretary of State a certified copy of the policy decision, and will also send to the Secretary of State, for transmission to the Supreme Commander for his information, whatever statements of interpretation or understanding may be made by representatives on the Commission."

GENERAL McCOY said that if there were no objection, the Soviet statement of understanding regarding paragraph 2 a would be handled under the procedure outlined above by Mr. Johnson. The Soviet statement is as follows:

"The Soviet delegation understands the term 'and other small arms' in paragraph 2 a of FEC-017/17 to mean arms of non-group use and non-fragmentation or mass effect, carried and used by a single person."

GENERAL McCOY presented the following statement of understanding on behalf of the United States Government for incorporation in the minutes and transmission to the Supreme Commander in accordance with normal procedure:

"The United States Government understands that it is within the SCAP's discretionary authority to interpret with what small arms he may equip the Japanese civil police and that any interpretation of the phrase 'small arms', which he may find it necessary to make in accordance with his authority under the Terms of Reference, is in no way abridged by any other understanding."

MR. FORD said that he understood the United States statement of understanding to mean that discretion as to the interpretation of the phrase "small arms" should be left to the Supreme Commander. With this understanding, the United Kingdom concurred, and he wished therefore to associate himself with the statement.

MR. POWLES said that while he agreed that it was the responsibility of the Supreme Commander to interpret any policy decision of the Far Eastern Commission, he could not agree to any implication that the Supreme Commander was at liberty to interpret the term "small arms" without reference to the use of the phrase in the policy decision.

MR. BULLOCK associated himself with Mr. Powles' statement and said that the question involved was not the meaning of "small arms" as such, but was rather the meaning of the term as it was used in the proposed policy decision, namely, "small arms exclusively used by civil police".

GENERAL McCOY agreed that the over-all policy decision must govern and determine the interpretation of any particular aspect of it.

MR. FORD said that his remarks above, in concurring with General McCoy, had been based on the fact that the United Kingdom Government had accepted the whole proposed policy decision as shown in FEC-017/17. Consequently, any explanatory statement would have to be read in connection with the policy decision as a whole, and not as a definition separated in any manner from the context of the proposed policy.

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DR. KOO said that he saw no radical differences in the statements which had been made because he regarded the principal purpose of the document to be to enable the Supreme Commander to maintain law and order in Japan.

He agreed that discretion as to the meaning of the term "small arms" should reside in the Supreme Commander and it was the feeling of the Chinese delegation that the Supreme Commander could be entrusted to make use of only those small arms actually needed to meet any specific situation that might arise. He was therefore prepared to associate himself with the understandings which had been expressed above.

MR. NAGGIAR said that, in view of the statements which had been made and in view of the general course of discussion on paragraph 2 a, he felt that the amendment which he had previously proposed (page 5, Minutes, 86th FEC Mtg.) as a possible means of affording a basis for unanimity, was no longer necessary, since the Commission appeared to be ready to approve the paragraph in the form in FEC-017/17. Therefore, if Mr. Powles, his seconder, had no objection he would withdraw his proposed amendment.

MR. PANYUSHKIN said that the statement of General McCoy, Chairman of the Far Eastern Commission, made by him on behalf of the United States Government on the question of interpretation of the term "and other small arms" in fact did not concern the substance of this question. In this statement General McCoy set forth the opinion of the United States Government, which considered that the question as to what small arms the Japanese civil police may be armed with came within the jurisdiction of the Supreme Commander, and that the Supreme Commander's action in this regard could not be abridged by any other understanding of this term.

The Soviet delegation, MR. PANYUSHKIN continued, could not recognize as correct the understanding by the United States Government that it is within the SCAP's jurisdiction to determine with what arms the Japanese civil police should be armed, since the right to determine this belonged to the Far Eastern Commission. Therefore, the Soviet delegation could not also agree with the opinion of the United States Government that any interpretation by the Supreme Commander of the term "and other small arms" was not abridged by any other understanding.

In virtue of the foregoing, MR. PANYUSHKIN concluded, the Soviet delegation considered this statement by the United States delegation as lacking legal standing since it was incompatible with the decision of the Moscow Conference of Foreign Ministers in December of 1945 in respect to the functions of the United States Government and the functions of the Supreme Commander.

GENERAL McCOY said that there seemed to be some misunderstanding on the part of the Soviet representative regarding the United States statement of understanding. He emphasized that there was no question of "adoption" of his statement involved. The statement was rather a statement for the record and for transmission, together with statements by other representatives, to the Supreme Commander, with the thought that such statements would be extremely useful to the Supreme Commander in administering the Commission's policy. None of these statements, he pointed out, in any way affected the terms of the proposed policy decision. As for the substance of his statement, GENERAL McCOY recalled the inability, after extremely exhaustive technical discussion, to arrive at an agreed definition of "small arms". It therefore seemed to him that the only authority left to determine the meaning of the term was the administering authority who would be responsible for meeting any emergency which might arise.

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MR. NAGGIAR observed that subsequent to the adoption of any policy decision by the Commission any representative could offer criticism or comment of any kind on action taken by the Supreme Commander to implement the policy. Indeed, representatives on the Commission were free to review the actions of the Supreme Commander in connection not only with the implementation of Commission policy but also in connection with the implementation of United States directives issued before the existence of the Commission or interim directives issued since the beginning of the Commission. Personally, MR. NAGGIAR failed to see any important advantage to be gained from entering statements of understanding at the time of adoption of policy decisions since, as he had pointed out, formal adoption was no hindrance to subsequent review of the Supreme Commander's actions. He thought there was little danger of the Commission's being "bypassed" since the Commission could always intervene in action being taken or even completed in Japan, under Section II, A 2, of the Terms of Reference which provided, among the functions of the Commission, "To review, on the request of any member, any directive issued to the Supreme Commander for the Allied Powers or any action taken by the Supreme Commander involving policy decisions within the jurisdiction of the Commission".

GENERAL McCOY said that, to meet the wishes of representatives, an excerpt from the minutes covering all statements made on this paragraph would be forwarded to the Supreme Commander in accordance with the normal procedure.

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FEC--CONFIDENTIALParagraph 10:

GENERAL McCOY recalled that the Soviet representative had, at the 89th meeting, following the defeat of his original proposed amendment to paragraph 10, declared his intention of proposing the following substitute amendment:

"The demobilization agencies should be dissolved and their functions of repatriation of Japanese prisoners of war will be transferred to a civilian agency."

GENERAL McCOY said that the United States did not find this substitute proposal acceptable. He said that such an amendment would appear to the Supreme Commander to be directing him to dissolve at once the demobilization agencies which he was in the process of gradually eliminating. He asked whether, in view of the United States opposition to the proposal, Mr. Panyushkin would wish to press for a vote on the proposal.

MR. PANYUSHKIN said that he did not wish to press this proposal to a vote and that in view of the fact that it could not be adopted, he would withdraw it.

GENERAL McCOY said that there had been some question as to the adequacy of the wording of the penultimate sentence in paragraph 10 which, in FEC-017/17 read as follows:

"Such demobilization agency as is retained for the purpose of demobilizing returning Japanese Armed Forces should be of a civilian character and should be abolished immediately after completion of the demobilization."

He said that the United States Government could not accept the phrase "prisoners of war" which had been suggested as a substitute for "Armed Forces", but he was prepared to offer as a substitute the phrase "military personnel". If this substitute were favored by other representatives, he would move its adoption as an amendment. If it were not favored he would withdraw it. It was offered only as a possible means of making the sentence more acceptable to representatives, and if they did not prefer it to the present wording, he would withdraw it.

MR. NAGGIAR said that he preferred the phrase "military personnel" in lieu of "Armed Forces".

DR. KOO said that he understood that the phrase "military personnel", if it were substituted, would mean military personnel in the widest sense, as distinguished from civilian personnel, and would include all branches of the Armed Forces.

MR. BULLOCK drew attention to the fact that the phrase "Armed Forces" was used not only in paragraph 10 but also in paragraph 1 b, where it was defined, and in paragraph 6. He did not himself think that revision of the phrase in paragraph 10 required revision in these other parts of the paper.

GENERAL McCOY said that the only complications caused by the phrase arose from its use in paragraph 10. His proposal had not been intended to suggest a change in the phrase throughout the paper.

MR. REUHLIN pointed out that in paragraph 1 b the term "Armed Forces" was defined. If the term "military personnel" were to be substituted for "Armed Forces" in paragraph 10, he thought that some definition of the term would become necessary. He therefore favored the retention of the term which was already defined, rather than the substitution for it of a term not yet defined. Even though a member of the armed forces were captured and became thereby a prisoner of war, he could still be described by his appropriate technical designation in the armed forces; Dutch "mounted artillerymen" had been captured and placed in German prisoner of

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war camps, but had continued to be referred to as "mounted artillerymen".

MR. POWLES recalled that in the previous discussion of the phrase he had favored the use of the words "prisoners of war". This preference, however, had been voiced in connection with an amendment proposed by General McCoy and subsequently withdrawn (page 6, Minutes, 89th FEC Mtg.) If paragraph 10 were to be retained in the form shown in FEC-017/17, MR. POWLES would prefer the phrase "Armed Forces" to either "military personnel" or "prisoners of war".

GENERAL MCCOY said that since the substitution of "military personnel" was not unanimously preferred, he would withdraw his informal suggestion.

MR. NAGGIAR recalled that he had (page 8, Minutes, 90th FEC Mtg.) reserved the right of his delegation to offer a further amendment to FEC-017/17. He said that it seemed to him appropriate that a policy decision dealing with disarmament and demilitarization should be linked to that portion of the Commission's Basic Post-Surrender Policy for Japan (FEC-014/9), approved 19 June 1947, which provided (Part III, paragraph 1) that "Disarmament and Demilitarization are the initial tasks of the military occupation and shall be carried out promptly and with determination". He therefore suggested that the following preamble be attached to FEC-017/17:

In accordance with paragraph 1, Part III of the Basic Post-Surrender Policy for Japan (FEC-014/9), adopted unanimously by the Far Eastern Commission on 19 June 1947, which states, "Disarmament and demilitarization are the initial tasks of the military occupation and shall be carried out promptly and with determination", the Far Eastern Commission approves the following policy decision on the Prohibition of Military Activity in Japan and Disposition of the Japanese Military Equipment."

It was ascertained by an informal canvass that the suggested preamble was acceptable to all representatives, and it was accordingly attached to the proposed policy decision.

GENERAL MCCOY said that he presumed that all representatives would agree that such a preamble would have no affect upon the provisions of the policy decision itself.

GENERAL MCCOY as Chairman moved and MR. REUCHLIN seconded the motion that FEC-017/17 be adopted as a policy decision by the Commission. The vote on this motion was ten in the affirmative, with the Soviet representative abstaining and offering the following statement:

"Document FEC-017/17, Prohibition of Military Activity in Japan and Disposition of Japanese Military Equipment, is of essential importance in the matter of carrying out the demilitarization of Japan. Proceeding from this, the Soviet Delegation during the discussion studied most carefully each paragraph of FEC-017/17 and submitted a number of amendments which improved and clarified provisions of this document. It is regretted that the Soviet Delegation's amendments to paragraphs 2, 6, 9, 10 and 13 have not been accepted by the other members of the Commission. As before, the Soviet Delegation considers these amendments very important and reserves the right to return to their consideration again at an appropriate time. However, in order not to prevent the adoption of Document FEC-017/17 the Soviet Delegation will abstain from voting."

Following a brief recess for purposes of consultation, GENERAL MCCOY said that the procedural question of whether or not the Soviet abstention would preclude the adoption of FEC-017/17 seemed to him personally to be clearly settled by paragraph V, 2 of the Terms of Reference of the Commission, which provided that Commission "action" required "the concurrence of at

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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." In view of the importance of any formal ruling on this point, however, and in view of the importance of the paper involved, he would suggest that this parliamentary question be the subject of discussion by a Committee of the Whole later in the day, and that the Commission itself meet on the following day to take final action on the subject.

MR. FORD said that this question of the interpretation of the Terms of Reference was extremely important and he for one would desire to seek instructions from his Government. He would therefore not be prepared to take a position on the effect of the Soviet abstention within as short a time as that suggested by General McCoy.

MR. POWLES said that he too desired instructions on the point involved and suggested that the Committee of the Whole meet the following Wednesday, with the Commission itself scheduled to meet at the normal time on Thursday.

GENERAL MCCOY inquired whether, in view of the prospective delay, the Soviet representative could ensure the immediate adoption of the proposed policy decision by casting a concurring vote for FEC-017/17 and maintaining as a matter of record his reservations as to future consideration of amendments.

MR. PANYUSHKIN replied that the Soviet position and the reasons for the position had been clearly stated in his formal statement. He therefore saw no necessity for any additional statement.

DR. KOO pointed out that the Soviet statement made it clear that it was not their intention to prevent adoption of FEC-017/17. He thought therefore that the Commission could consider the paper as adopted and could discuss later the broad question of the parliamentary effect of abstentions in the light of paragraph V, 2 of the Terms of Reference. He felt that in the present instance the intention of the abstainer should be considered, since the effect of the abstention should be judged in the light of his intention.

MR. NAGGIAR said that he agreed with Dr. Koo. He thought that the problem of how the veto might be exercised was one to be carefully studied, with account taken of the experience of the organs of the United Nations. The Soviet statement made it clear that there was no intention on the part of the Soviet delegation to prevent adoption of the paper, and, in his personal opinion, the paper had been adopted.

MR. BANERJI said that in the particular case, ^{in view of the last sentence in the Soviet Representative's statement,} he ^{felt} regarded the Soviet abstention as an abstention from the exercise of the veto. ^{that} While this was only a personal opinion, he thought that if the Soviet representative could state ^{clearly} ~~categorically~~ whether or not his abstention had been intended as a veto of FEC-017/17, the Commission could act in accordance with that intention.

MR. REUHLIN said that he agreed with the views just expressed. He did not agree with the interpretation offered by the Chairman at the previous meeting (pp. 3 and 4, Minutes, 91st FEC Mtg.) that abstention by a veto power constituted in effect the exercise of the veto. Paragraph V, 2 of the Terms of Reference set forth certain conditions for voting when there was an absence of unanimity. In the present case, however, since no objection had been registered, MR. REUHLIN felt that a "unanimous" vote on FEC-017/17 had been obtained.

MR. POWLES said that under the Commission's Terms of Reference a proposal must have "concurrence" in order to be adopted. If Mr. Panyushkin could state that his abstention constituted "concurrence", the Commission

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could regard the policy as adopted.

MR. JOVELLANOS associated himself with the views expressed by Mr. Powles. Abstention, he thought, amounted to non-concurrence and he would like to obtain further instructions before pursuing the question further.

MR. FORD said that he could not personally agree with the more optimistic of the views expressed. He felt that the Terms of Reference quite clearly required the concurrence of the four veto Powers. Abstention, he thought, could not be construed as "concurrence". In his view, accordingly, the vote had been lost. If the Soviet delegation desired the adoption of FEC-017/17, it would have to cast a concurring vote.

MR. PANYUSHKIN said that he regarded his original statement on his abstention as a sufficient description of his position on the proposed policy.

DR. KOO referred to his earlier suggestion to separate the two points involved in the question: (1) whether the present paper FEC-017/17 had been adopted by the Commission, and (2) the broad question of the effect of an abstention by a member having the so-called power of veto. He stated that some of the members laid stress on the word "concurrence" as used in paragraph V, 2 of the Terms of Reference of the Commission. The Charter of the United Nations, he pointed out, contained a similar and even clearer provision. Paragraph 3 of Article 27 provided: "Decisions of the Security Council on all other matters shall be made by an affirmative vote of seven members, including the concurring votes of the permanent members....." In the course of the last two years the interpretation of the words "affirmative" and "concurring" had undergone a good deal of evolution, and the Security Council had established the practice that an abstention by one of its permanent members was no longer considered as a so-called veto. This practice was in response to the general desire throughout the world, so to speak, to liberalize the veto provision and it had helped to facilitate the work of the Council. Although this Commission was not bound by the practice of the Security Council, it was worth considering whether representatives, in the interest of facilitating the reaching of decisions in the Commission, might regard an abstention by one of the members having the power of the so-called veto as not a veto, especially where the abstainer announces that it was not his intention to prevent the adoption of a paper, that is to say, he did not wish to exercise the veto. It was for these reasons, he added, that he threw out the suggestion that the Commission might consider the paper before it as having been adopted, leaving the broad question of the effect of abstention in future proceedings to be settled separately at a later appropriate time.

MR. BULLOCK said that the veto was a relatively new institution in international affairs and had not been universally favored. Indeed, it had been vigorously opposed by his own Government, and frequent attempts had been made by them to liberalize its use. Therefore, in the present situation, MR. BULLOCK said, when a veto power in effect offered to waive its right of veto, he felt the response should not be a legalistic seeking for fine shades of meaning in the Terms of Reference that would ^{have the effect of} ~~continue~~ ^{to involve} the veto. Instead, what the Commission should consider was the intention of the abstaining representative that his abstention should not constitute a veto. In the present case, MR. BULLOCK said, it was perfectly clear that the Soviet representative, in abstaining from voting, did not wish thereby to prevent adoption of FEC-017/17.

MR. COLLINS said that there were some grounds, even under the Terms of Reference, for interpreting an abstention as a "concurrence", since the "concurrence" referred to was concurrence in the "action" taken by the Commission. In this case, the Soviet representative had clearly "concurred" in the "action" being taken.

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GENERAL McCOY said that in view of the foregoing discussion, he would, as Chairman, take the responsibility of declaring that FEC-017/17 had been adopted by the Commission, on the ground that the Soviet statement amounted to "concurrence" in the "action" taken by the Commission within the meaning of paragraph V, 2 of the Terms of Reference. The broader question of the parliamentary effect of abstention by a veto power would remain for subsequent consideration by the Commission.

ITEM 3 - REPORT OF THE AD HOC DRAFTING SUBCOMMITTEE ON A PRESS STATEMENT
(FEC-296)

There was no consideration of this subject.

ITEM 4 - ATTENDANCE AT INTER-GOVERNMENTAL CONFERENCES (FEC-236/10,
SC-236/8; 236 series)

There was no consideration of this subject.

ITEM 5 - a STATEMENT BY THE UNITED STATES REPRESENTATIVE OF THE FAR
EASTERN COMMISSION ON REPARATIONS SHARES (FEC-278)

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

There was no consideration of this subject.

ITEM 6 - a RESTITUTION OF LOOTED PROPERTY (FEC-011/40, -/42, -/12, -/21
-/32 through -/39)

b RESTITUTION OF LOOTED PROPERTY: NETHERLANDS SUBSTITUTE
(FEC-011/43)

There was no consideration of this subject.

ITEM 7 - ADVANCE TRANSFERS OF JAPANESE REPARATIONS (FEC-201/1)

There was no consideration of this subject.

ITEM 8 - OTHER BUSINESS

There was no other business.

ITEM 9 - PRESS RELEASE

THE COMMISSION unanimously agreed that the text of the policy decision on "Prohibition of Military Activity in Japan and Disposition of Japanese Military Equipment" (FEC-017/17) should be released to the press in the normal course.

The meeting adjourned at 1:20 P.M.

COPY NO. 140FEC--CONFIDENTIALMINUTES--93rd FEC Mtg.13 February 1948FAR EASTERN COMMISSION

Minutes of the Ninety-third Meeting of the Far Eastern Commission,
Held in the Main Conference Room, 2516 Massachusetts Avenue, N. W.,
Washington, D. C.
13 February 1948, 10:30 A.M.

REPRESENTATIVES PRESENT

Major General Frank R. McCoy (United States) Chairman
Mr. A. Stirling (Australia)
Mr. H. W. Bullock
Mr. R. E. Collins (Canada)
His Excellency Dr. V. K. Wellington Koo (China)
Mr. Jean Daridan (France)
Mr. S. N. Banerji (India)
Mr. O. Reuchlin (Netherlands)
Mr. G. R. Powles (New Zealand)
Mr. J. U. Jovellanos (Republic of the Philippines)
His Excellency Mr. A. S. Panyushkin (U.S.S.R.)
Mr. S. K. Tsarapkin
Mr. J. F. Ford (United Kingdom)

SECRETARY GENERAL

Mr. Nelson T. Johnson

NOTE: 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.

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FEC-RESTRICTEDSUMMARY REPORT OF AD HOC COMMITTEE OF THE WHOLE COMMISSION
TO DRAFT A REBUTTAL TO PRESS LEAKS, 3:00 P.M., 9 FEBRUARY 1948

1. Representatives of all countries, except Canada, were at the table. THE SECRETARY GENERAL, as Chairman, announced the purpose of the meeting, which was to prepare a draft statement along the general lines proposed by the Soviet representative on the FEC for submission to the Chairman of the Far Eastern Commission for consideration by the full Commission at the next regular meeting. MR. POWLES and MR. BULLOCK stated at the outset that they were without Government instructions and could speak only in a personal capacity.

2. MR. GRAVES submitted that the first question before the Committee was not how to draft a statement, but whether or not a statement should be drafted. Although he was speaking in a personal capacity, it was his view that unless the honor of the Commission could clearly be shown to be at stake, no statement beyond what had already been released by the Chairman was necessary.

3. DR. BLAKESLEE said that General McCoy was anxious to do whatever could reasonably be done to meet the Soviet point of view. While General McCoy was inclined to feel that his own statement was adequate, he wondered what more the Soviets would like to have issued. The Soviet member replied that his objection to the newspaper stories was that they presented a distorted view of the deliberations of the Commission itself, and he submitted the attached statement as his proposal.

4. At this point MR. GRAVES pressed his query as to the necessity of a statement, and members were accordingly polled as follows:

(a) MR. JOVELLANOS: It was his personal view that no additional statement was necessary.

(b) MR. POWLES: He agreed that the articles were misleading, but on the other hand, said that it was unusual for an international body as such to make any reply to distorted press reports. The Chairman himself might issue a statement, the country aggrieved might take it up directly with the country in which the erroneous report appeared, or the body might release its formal minutes. MR. POWLES pointed out inaccuracies in the Soviet statement. Actually, he said, the Chairman's own release had been in reply to the article in Newsweek, since it quoted directly from that article. The Newsweek article had actually made its appearance on the streets on 29 January. MR. JOHNSON added that the story in the Washington News, to which the Soviet member referred, had also been on the streets before General McCoy's statement was released. MR. POWLES went on to point out the added difficulty that would be encountered in the time required for members to get governmental approval for the unprecedented step of issuing a formal statement; by the time any such approval could be gotten, the issue would already have become out of date. For these reasons he felt that General McCoy's statement was sufficient.

(c) DR. VAN GULIK: He agreed that the Chairman's statement was adequate. Otherwise there was a possibility that the Commission might find itself engaged in a lengthy exchange of views with the press, a most unusual procedure for an international body. He queried whether the Chairman's statement might perhaps have been presented to the Commission before its release, thus obviating the need for any further statement. MR. GRAVES pointed out that long ago the Chairman had been requested by the Commission to give such statements to the press

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as were appropriate regarding the Commission's work, and this authority was continuing and overriding. In any event, for a statement to be effective and timely, it would have to be issued promptly; laying it before the Commission would only have contributed to delay.

(d) MR. BANERJI: Although without governmental instructions, Mr. Banerji agreed that from a personal point of view, while it was unfortunate for the Soviet representative to be placed by the press in an unfavorable light, the time factor alone would seem to render any further statement unnecessary.

(e) MR. DOUTEAU: Although also without instructions, he pointed out that the Commission still did not have all the necessary information on this matter, including details as to how the leak had occurred. He agreed personally that an additional statement would be unwise and "premature".

(f) MR. LIU: He said that he had an open mind on the matter and queried whether there might be some other way than the release of a further statement by the Commission that would meet the wishes of the Soviet member.

(g) MR. BULLOCK: He said that he had great sympathy for the position of the Soviet delegation, but agreed that a statement on behalf of the Commission in this case would be without precedent, and would accomplish little that had not already been accomplished by General McCoy's statement. Moreover, from the standpoint of news, he felt that the time factor was overriding against a further statement.

(h) DR. BLAKESLEE: The U S. member had no proposed statement to offer and was without governmental instructions. General McCoy was distressed by the Newsweek article and had released his statement immediately. This was a formal "statement", DR. BLAKESLEE said, not, as described in the Soviet proposal, an "interview". He said that General McCoy would probably feel that the question of whether an additional statement was or was not necessary would depend upon the kind of statement proposed. Dr. Blakeslee's own view was that the present Soviet proposal was somewhat more specific than would be appropriate. He felt that the danger of the Soviet proposal was that in refuting in too great detail the errors of a newspaper article, the Commission would have to reveal much of its own confidential deliberations. Also, he queried whether any really accurate account of an issue like the military issue could be given without filling in the fullest historical background.

(i) MR. GRAVES reiterated his view that there was no necessity for going beyond the Chairman's statement unless there was prima facie evidence that the honor of the Commission had been attacked by the articles in question.

(j) MR. TSARAPKIN: In arguing, as Dr. Blakeslee had done, that the Commission should issue a more detailed statement, one only came back to the situation that confronted the Commission at its last meeting, where the Soviet Ambassador had already expressed his disapproval of any such general statement. If the Commission were to remain silent or to confine itself only to a general statement of the kind suggested, this would be an encouragement to authors like Mr. Weintal to continue to describe the work of the Commission in an erroneous fashion. MR. TSARAPKIN pointed out that the present subcommittee was charged with the duty of drafting a statement and was not competent to decide the issue of whether or not a statement was necessary.

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5. THE SECRETARY GENERAL agreed that the subcommittee was not competent to decide the question of whether or not a statement was necessary, and was authorized only to draft an appropriate statement. The only proposal along that line before the subcommittee was the Soviet proposal. In the absence of instructions on this proposal, there appeared to be nothing that the subcommittee could do but adopt Mr. Graves' suggestion to adjourn for the time-being. MR. JOHNSON said that the Secretariat would query members as to whether they had received instructions on the Soviet proposal, and if so a further meeting could be held before the next full Commission meeting. With that understanding the subcommittee adjourned.

1

FEC-CONFIDENTIALITEM 7 - OTHER BUSINESS

GEN. MCCOY: There seems to be no time for consideration of other matters. Is there anything under pressure that need be mentioned?

The Secretary General will prepare the statements with reference to the tragic death of Mahatma Gandhi and have them checked with each one of you before giving it to the press.

If there is no other business this morning, we will stand adjourned until 10:30 tomorrow morning.

MR. PANYUSHKIN: Mr. Chairman, I would like to make the following statement:

Mr. Chairman, in connection with the fact that in the press lately there have been repeated tendentious articles dealing with the work of the Far Eastern Commission as a whole and positions of individual countries on questions considered in the Commission which are presented in a form of a sensational disclosure of secrets, as, for example, articles published in the "Washington Daily News" of 31st January and in the "Newsweek" of the 2nd of February, this year, in which intentionally the real facts are distorted, we consider that the Far Eastern Commission should bring to the knowledge of public opinion that the authors of such articles, using while writing them information illegally obtained and distorted, or distorting such information intentionally themselves, misinformed the readers and created a false impression of the work of the Far Eastern Commission as a whole as well as of the positions of individual countries members of the Far Eastern Commission, as, for example, the position of the U.S.S.R., on the questions discussed at a recent meeting of the Far Eastern Commission. The Soviet delegation proposes that the Commission decide to suggest to the Chairman of the Far Eastern Commission with the participation of the countries interested in this matter to prepare for the next meeting of the Far Eastern Commission - not tomorrow's meeting but the one following - a text of refutation in which the real course of discussion of the questions should be clarified as they took place at the last meetings of the Commission.

In addition to that, I propose, Mr. Chairman, that the Chairman of our Commission undertake an investigation in connection with the fact of the leakage of the information on the basis of which leakage of secret documents such sensational and false articles appeared lately in the press.

That is all, Mr. Chairman.

GEN. MCCOY: We have been so engaged with other business that I hadn't taken notice of that before the Commission, but I did give a statement as soon as it was brought to my attention to the press.

In connection with the article of which he mentions, the particular article in "Newsweek" dated February 2nd which deals with the proceedings in recent meetings of the Commission, the article is inaccurate and misleading. I much regret its publication, especially since the article is evidently based in some part on information which must have been given, directly or indirectly, to a member of the press by some one who was present in one or more recent meetings of the Commission.

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I am authorized by my Government to state that it also deeply regrets this publication and that it has no information or indication as to the source of the leak. As soon as my attention was called to this issue of "Newsweek" I prepared a press release which pointed out the inaccurate and misleading character of the article, and which the Secretariat distributed to the members of the Commission.

As I have stated a number of times, the Far Eastern Commission, during its two years, has had a good record in regard to the security of its proceedings and its confidential documents. This generally good record makes this present leak increasingly regrettable.

The main point of the article is that there has recently been a striking change in both the official and personal relations between members of the Commission. I am aware of no such change. From the beginning of the Far Eastern Commission and until today each member and each assistant has earnestly and to the best of his ability--yet with all courtesy--supported and advocated the views of his government. From the beginning of the Far Eastern Commission and until today each member and each assistant has been notably pleasant in the personal relations with other members and assistants. I expect these relations, both professional and personal, to continue unchanged.

The only lesson from this regrettable incident is that each person who attends a Commission meeting or who has any responsibility for a confidential FEC document should exercise increasing vigilance to safeguard the security of the FEC confidential material both oral and written.

I am not sure just what the Ambassador wishes the Chairman to do now.

MR. PANYUSHKIN: Mr. Chairman, what I actually want is that you, together with the representatives of the countries concerned, prepare a draft refutation for publication in the press in which a clarification of the real course of the discussions should be expressed, so that this draft should refute the fabrications that have been published lately in the press, and, of course, this refutation should be released to the press.

GEN. MCCOY: Yes--

MR. PANYUSHKIN: Released, of course, after it has been considered here at this Commission.

GEN. MCCOY: Yes. I thought that I had covered that in the statement given out and the articles there in the "New York Times" would indicate that at least in that responsible paper they have covered the point made by the Ambassador.

MR. PANYUSHKIN: Mr. Chairman, I am afraid this will not be sufficient for two reasons: first of all because your statement has not made any effect in the direction desired since you published your statement on the 30th of last month while after that date other publications took place in the press. The second reason for my proposing is that it is absolutely necessary that the truthful picture of our proceedings and considerations should be presented, as it were, in the press. Indeed, in connection with one of our colleagues here, namely, the representative of the U.S.S.R., there were insinuations fabricated which in effect do not exist. Such a situation should be corrected and refuted.

FEC-CONFIDENTIAL

It seems to me this would serve only to help our international body here to show the real picture and real face of our Commission.

So, in this connection, Mr. Chairman, I would like to have you record the statement which I made on this matter and adopt an appropriate decision.

GEN. MCCOY: Well I will consult with my colleagues.

I take it you don't want that done today?

MR. PANYUSHKIN: Probably tomorrow.

GEN. MCCOY: Yes--and I will consult with the Ambassador, and I would hope that he might have a statement that he would like to put before the Commission on the subject because I feel very strongly with him in handling it the best possible way.

MR. PANYUSHKIN: Yes.

GEN. MCCOY: And the others--I hope--will be thinking about it and helpful in carrying out the best way to meet the situation.

1.

NEWSWEEK - FEBRUARY 2, 1948
(Published 29 January 1948)

THE KREMLIN GETS TOUGH

The new American policy of concentrating on the reconstruction of the Japanese economy was announced to the Far Eastern Commission at the very moment the Russians were giving the first indication that from now on they would be as obstructive in the FEC as they have been in other diplomatic enterprises. Edward Weintal, NEWSWEEK diplomatic correspondent, sends the story behind this development.

The hitherto complacent Soviet attitude toward the activities of the Far Eastern Commission has come to an abrupt end with the arrival of the new Soviet ambassador, Alexandre S. Paniushkin. The ambassador has so far attended only three FEC meetings. But in these three meetings he has already proposed restrictions on General MacArthur's freedom of action in Japan, demanded an immediate vote on his proposals, and blocked the consideration of Pakistan's request for membership in the commission as a new Far Eastern state.

RIOTS WANTED: The specific restrictions on MacArthur's activities which Paniushkin demands deal with the problem of demilitarization. One proposal, if adopted, would make it mandatory on General MacArthur to prohibit the use of "mass-effect" weapons by the Japanese police. In vain, other members of the commission argued that "mass-effect" weapons such as tear-gas bombs and automatic rifles are used by police throughout the world, and are needed to control riots, mob action, and gang warfare. Even the French representative's plea that the Soviet proposal would make the police's use of fire hoses unlawful left Paniushkin unmoved. The other proposals, termed equally impracticable by most members of the commission, would place strict time limits on the scrapping of all military equipment found in Japan and on the destruction of military personnel records.

So far, the American chairman of the commission, Maj. Gen. Frank R. McCoy, has succeeded in delaying the vote, but a show-down is expected at the next meeting scheduled for this week.

Paniushkin's proposal to shelve Pakistan's membership application is also due for an early vote. Some United States and British experts predict that the move may herald a Soviet attempt to bring about the admission of the Mongolian People's Republic as a price of Pakistan's membership.

IDLY'S END: Paniushkin's performance came as a distinct shock to the other members of the eleven-nation commission. Until the ambassador's arrival, the Soviets were represented by Rear Admiral Semeon S. Rameshvily, an amiable gentleman who cracked jokes and winked knowingly at his colleagues whenever instructions from Moscow forced him to disagree with the majority. Since he never requested a vote the illusion of unanimity was fully preserved.

Because of the admiral's amiability the commission was able to operate in a wonderland of its own. Even some United States members were beginning to believe that they alone knew how to get on with the Russians. Nelson T. Johnson, the commission's American secretary general, stated in the December issue of the American Foreign Service Journal that the success of the commission in "solving" difficult international problems was due largely to the fact that "meetings of the commission were not open to the public."

But seasoned Russian experts in the State Department have never wavered in their belief that the appointment of a top Far Eastern expert to the Soviet ambassadorship in Washington would mark the end of the Rameshvily idyl and the beginning of a tough Russian policy in the FEC.

2.

WASHINGTON DAILY NEWS
30 January 1948

SOVIET POLICY ON JAPAN
by William Philip Simms

As China's defenses in Manchuria and North China weaken under the Red onslaught and the communization of Korea proceeds on schedule, Russian policy in Japan has begun to stiffen.

Up to now, oddly enough, Russia has not seen fit to rear and pound the table at meetings of the Far Eastern Commission here. True, her representative, Admiral Semexn Rameshvily, often has differed with the majority. But the sessions have been incredibly more peaceful than similar meetings between Russians and the Democracies elsewhere.

Apparently, tho, Russia was only marking time. There was little she could do until the general Far Eastern situation ripened.

Now there has come a change. It coincides with the arrival here of the new Soviet Ambassador, Alexander Panyushkin. No sooner had he presented his credentials to President Truman than he began to act like everyone has come to expect a Russian to act. Moscow doesn't like the way Gen. MacArthur is running things in Japan and a lot of changes are demanded. Plainly the envoy brought with him some new instructions.

* * *

This, in itself, is not without significance. For one thing, it means that Russia intends to quicken the tempo of events in Japan, Korea, Manchuria and China to keep them in step with Europe. But what is even more significant are some of the things which she wants from the FEC.

For instance, according to Newsweek's usually well informed diplomatic correspondent, Edward Weintal, the Russians now insist that "mass effect" weapons be prohibited to Japanese police, that all military equipment in Japan be scrapped and military personnel records destroyed.

This writer can state that the time limit demanded by the Russian spokesman for scrapping military equipment was six months and for personnel records three months.

"Mass-effect" weapons comprise such things as tear gas or even fire hose. In the event of a riot, the Japanese police would be powerless. Destruction of Japanese military equipment would complete their helplessness. Jap Communists, whose arms could be supplied in abundance from outside, would find trouble-making both safe and easy.

At least 50 per cent of Japanese military equipment, tho, was not in Japan at the surrender. It was in Korea, Manchuria, North China, Indo-China, Burma, Siam and Indonesia. Much of this, especially in northern Asia, was turned over to native Communists by the Russians and is now being used against the recognized regimes. A great deal of what remained is in the hands of Soviet fifth columnists.

* * *

Just why Moscow should be so insistent on the destruction of military personnel records in Japan is somewhat less clear, at least on the surface. However, thousands of Jap officers and tens of thousands of soldiers have never returned home. They seem to have vanished altogether. But it is no longer any secret that Russia is utilizing many of them in the armies she is building up in Manchuria, Korea and North China and still others are leading Communist underground movements in various parts of Asia.

Once the official records of all these men were burned, the last possibility of forming even a fair estimate of the number of Japs still in Russian hands would be gone forever.

3.

NEW YORK TIMES
31 January 1948

MCCOY DENIES RIFT IN FAR EAST GROUP

WASHINGTON, Jan. 30 --Major Gen. Frank R. McCoy, the American member and chairman of the Far Eastern Commission, issued a statement today denying that discord had recently arisen within the Commission.

The statement was said to have been prompted by a report that Alexander S. Panyushkin, the new Soviet Ambassador here and representative on the Commission, had been a disturbing influence.

No member of the Commission, General McCoy said, has "blocked consideration" of any increase in commission membership or any other proposal.

"The manner in which negotiations have been conducted over many months has not changed," he added. "Personal relations between representatives continue to be courteous and reasonable."

Stressing that American policy toward Japan is directed toward the creation of conditions that make for lasting peace, he declared that "cooperation with our Allies through the machinery of the Far Eastern Commission is an essential part of that policy."

END

FEC-RESTRICTEDSOVIET PROPOSAL FOR PRESS STATEMENT

February 9, 1948

Recently in the United States press there have been published several articles in which an attempt is being made to describe the work of the Far Eastern Commission.

It is characteristic of these articles that they cover tendenciously and in a distorted form the questions under consideration by the Far Eastern Commission.

In connection with the publication of distorted information on the Commission, its Chairman Major-General Frank R. McCoy, in his interview of 30 January 1948 gave a general characterization of the atmosphere in which the work of the Far Eastern Commission had been going on. However, after this interview, the "Washington Daily News" published on 30 January an article by William Simms and "The Newsweek" magazine published on 2 February an article by Edward Weintal in which the authors, distorting the facts, are misinforming the world's public opinion regarding the work of the Far Eastern Commission.

Condemning the facts of the tendencious and incorrect coverage in the press of the Commission's work, and in order to eliminate the harmful effect of such publications, the Far Eastern Commission considers it to be its duty to publish in the press the following statement which, in the Far Eastern Commission's opinion, will help the public to form a correct conception of the atmosphere in the Far Eastern Commission and of the positions of particular countries on the various questions which have recently been under consideration by the Far Eastern Commission.

The Far Eastern Commission notes that the authors of the above mentioned articles distorted the course of the consideration of paragraphs 2, 6, and 9 of document FEC-017/17. "Prohibition of Military Activity in Japan and Disposition of Japanese Military Equipment".

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1. The draft wording of paragraph 2 reads that:

"Possession of arms, ammunition and implements of war by any Japanese should be prohibited save that the Supreme Commander may authorize the use:

- a. by Japanese civil agencies for the purpose of maintaining law and order of rifles and pistols and the necessary ammunition for them and other small arms exclusively used by civil police".

In view of the fact that the term "and other small arms" is rather general and could be interpreted differently, the Delegation of the Soviet Union proposed that this term be clarified.

For this purpose the Soviet Delegation suggested that the following be added to paragraph 2a:

"In this case the term 'small arms' is understood as arms of non-group use and non-fragmentation or mass effect, carried and used by a single person".

The course of the discussion showed that members of the Far Eastern Commission did not agree to accept this addition by the Soviet Delegation.

In order not to delay the adoption of this document, the Soviet Delegation subsequently did not insist on the above-mentioned amendment, proposing to attach to document FEC-017/17 the following text of its statement:

"The Soviet Delegation understands the term 'and other small arms' in paragraph 2a to mean arms of non-group use and non-fragmentation or mass effect, carried and used by a single person".

The Far Eastern Commission has not adopted a final decision on para. 2a, since there are other delegations' amendments to the draft wording of para. 2a, in particular a combined amendment of the French and New Zealand representatives. Also, the United Kingdom representative has reserved his right to make a statement on interpretation of para. 2a.

2. The draft wording of paragraph 6 reads that:

"Military equipment seized from the former Japanese armed forces or from members of the Japanese civil populace should after examination be destroyed or scrapped. . ."

FEC-RESTRICTED

The Soviet Delegation, proceeding from the necessity of adopting a precise wording of this paragraph, insisted on the deletion from the above-quoted text the words "after examination".

However, in view of the fact that some members of the Far Eastern Commission opposed this Soviet proposal, the Soviet Delegation submitted for the consideration of the Far Eastern Commission another amendment in which a six-month period was provided for the destruction of the Japanese military equipment from the date of the adoption of this decision.

As was shown in the further course of discussion the latter amendment of the Soviet Delegation also was not accepted by the Far Eastern Commission. At the last meeting on 5 February, 1948 the Soviet Delegation again raised the question of deleting from paragraph 6 the words "after examination". As a result of the vote that was taken at that meeting, 5 FEC members were in favor of the Soviet Delegation's proposal, 3 against and 3 abstained.

3. Paragraph 9 - on the destruction of records of military registration of demobilized personnel.

The draft of this paragraph was worded as follows:

"All records of military registration of demobilized personnel from the Army, Navy, Air Forces, gendarmerie and secret police should be confiscated and transferred to the Supreme Commander for the Allied Powers for subsequent destruction. No further records of this nature should be compiled or maintained by the Japanese".

The Soviet Delegation proposed that the following be added at the end of the first sentence of this paragraph:

". . . within a 3 to 6 month period after the adoption by the FEC of this document."

The Soviet Delegation insisted on the adoption of this additional wording for the reason that over two years had already elapsed since the defeat of the Japanese Army, and that the demobilization of the former Japanese armed forces had already been completed and there was no more necessity of having such records.

FEC-RESTRICTED

However, in the course of the discussion it became apparent that this amendment of the Soviet Delegation was not acceptable to the other members of the Far Eastern Commission, and the Soviet Delegation, unwilling to delay the adoption of the document on disarmament as a whole, did not press for the adoption of its amendment to paragraph 9.

4. The Far Eastern Commission considers it also necessary to inform the public opinion on the question of the consideration by the Commission of the application of Pakistan for membership of the Far Eastern Commission.

In the course of the discussion of this question the United States representative stated that in the opinion of the United States Government, according to the Terms of Reference of the Far Eastern Commission, admission to membership might be done by agreement between governments but that such agreement might be attained either through normal channels or by means of communicating appropriate instructions to their representatives on the Far Eastern Commission. The representative of China raised a question as to the jurisdiction of the Far Eastern Commission to decide upon the admission of additional members. The representative of the Netherlands stated that, in his opinion, the consideration of the question of the admission of Pakistan to membership of the Far Eastern Commission, even though the governments would have communicated instructions to their representatives, was improper, since, according to paragraph 5 of the Terms of Reference of the Far Eastern Commission, the question of admission of new members should be decided upon by agreement of the appropriate governments, and that he did not consider it possible to discuss the question of admission of Pakistan to membership of the Far Eastern Commission. In view of the difference of opinions on this question on the part of the Far Eastern Commission's members, the Soviet representative suggested that the question not be considered at that meeting, in order to give representatives opportunity to ask the views of governments on Pakistan's application, and after that decide whether the application of Pakistan should be put on the agenda of the Commission.

FEC-RESTRICTED

This proposal of the Soviet representative was adopted by the Far Eastern Commission unanimously.

It is clear from the above-said that the authors of the articles, having illegally obtained the information on the closed meetings of the Far Eastern Commission, published this information in an entirely distorted form, which fact cannot be qualified by the Commission in any other way than as a rude mannered attempt to misinform public opinion.

The Far Eastern Commission considers ~~that~~ the appearance of such articles in the press does not contribute to the normal course of the Commission's work.

SUMMARY--FECFEC--CONFIDENTIALSUMMARY - 93rd FEC Mtg.13 February 1948FAR EASTERN COMMISSIONSUMMARY OF MINUTES OF 93rd MEETINGITEM 1 - REPORT OF THE AD HOC DRAFTING SUBCOMMITTEE ON A PRESS STATEMENT
(FEC-296)

Discussion of FEC-296 in conjunction with Soviet draft press statement dated 9 February (text embodied in these minutes). Subject referred back to ad hoc subcommittee in the light of discussion.

ITEM 2 - ATTENDANCE AT INTER-GOVERNMENTAL CONFERENCES (FEC-236/10, SC-236/8;
236 series)

Postponed.

ITEM 3 - a STATEMENT BY THE UNITED STATES REPRESENTATIVE OF THE FAR
EASTERN COMMISSION ON REPARATIONS SHARES (FEC-278)b REPORT OF COMMITTEE NO. 1 TO THE FAR EASTERN COMMISSION REGARDING
DIVISION OF REPARATIONS SHARES (FEC-219/25; 219 series)

Postponed.

ITEM 4 - a RESTITUTION OF LOOTED PROPERTY (FEC-011/40, /42; FEC-011/12,
/21, /32 through /39)b RESTITUTION OF LOOTED PROPERTY: NETHERLANDS SUBSTITUTE
(FEC-011/43)

Postponed.

ITEM 5 - ADVANCE TRANSFERS OF JAPANESE REPARATIONS (FEC-201/1)

Postponed.

ITEM 6 - OTHER BUSINESS

None.

ITEM 7 - PRESS RELEASE

None.

Summary-93rd FEC Meeting
13 February 1948

FEC--CONFIDENTIAL

GENERAL McCOY welcomed Mr. Jean Daridan, Counsellor of the French Embassy in Washington, who was attending his first meeting as the alternate of the French representative.

ITEM 1 - REPORT OF THE AD HOC DRAFTING SUBCOMMITTEE ON A PRESS STATEMENT
(FEC-296)

MR. JOHNSON, speaking as Chairman of the ad hoc subcommittee which had been appointed at the 91st meeting (page 6, Minutes, FEC) to prepare a draft press statement for submission to the Commission, presented his report on the progress of the work of the subcommittee as shown in FEC-296. As noted in FEC-296, only the Soviet member of the ad hoc committee had presented a draft for consideration. The text of this draft follows:

"Recently in the United States press there have been published several articles in which an attempt is being made to describe the work of the Far Eastern Commission.

"It is characteristic of these articles that they cover tentatively and in a distorted form the questions under consideration by the Far Eastern Commission.

"In connection with the publication of distorted information on the Commission, its Chairman, Major General Frank R. McCoy, in his interview of 30 January 1948 gave a general characterization of the atmosphere in which the work of the Far Eastern Commission had been going on. However, after this interview, the 'Washington Daily News' published on 30 January an article by William Simms and 'The Newsweek' magazine published on 2 February an article by Edward Weintal in which the authors, distorting the facts, are misinforming the world's public opinion regarding the work of the Far Eastern Commission.

"Condemning the facts of the tendentious and incorrect coverage in the press of the Commission's work, and in order to eliminate the harmful effect of such publications, the Far Eastern Commission considers it to be its duty to publish in the press the following statement which, in the Far Eastern Commission's opinion, will help the public to form a correct conception of the atmosphere in the Far Eastern Commission and of the positions of particular countries on the various questions which have recently been under consideration by the Far Eastern Commission.

"The Far Eastern Commission notes that the authors of the above mentioned articles distorted the course of the consideration of paragraphs 2, 6, and 9 of document FEC-017/17, 'Prohibition of Military Activity in Japan and Disposition of Japanese Military Equipment'.

"1. The draft wording of paragraph 2 reads that:

'Possession of arms, ammunition and implements of war by any Japanese should be prohibited save that the Supreme Commander may authorize the use:

a. by Japanese civil agencies for the purpose of maintaining law and order of rifles and pistols and the necessary ammunition for them and other small arms exclusively used by civil police'.

In view of the fact that the term 'and other small arms' is rather general and could be interpreted differently, the delegation of the Soviet Union proposed that this term be clarified.

For this purpose the Soviet delegation suggested that the following be added to paragraph 2 a:

'In this case the term "small arms" is understood as arms of non-group use and non-fragmentation or mass effect, carried and used by a single person'.

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The course of the discussion showed that members of the Far Eastern Commission did not agree to accept this addition by the Soviet Delegation.

In order not to delay the adoption of this document, the Soviet delegation subsequently did not insist on the above-mentioned amendment, proposing to attach to document FEC-017/17 the following text of its statement:

'The Soviet delegation understands the term "and other small arms" in paragraph 2 a to mean arms of non-group use and non-fragmentation or mass effect, carried and used by a single person'.

The Far Eastern Commission has not adopted a final decision on paragraph 2 a, since there are other delegations' amendments to the draft wording of paragraph 2 a, in particular a combined amendment of the French and New Zealand representatives. Also, the United Kingdom representative has reserved his right to make a statement on interpretation of paragraph 2 a.

"2. The draft wording of paragraph 6 reads that:

'Military equipment seized from the former Japanese armed forces or from members of the Japanese civil populace should after examination be destroyed or scrapped.....'

The Soviet delegation, proceeding from the necessity of adopting a precise wording of this paragraph, insisted on the deletion from the above-quoted text the words 'after examination'.

However, in view of the fact that some members of the Far Eastern Commission opposed this Soviet proposal, the Soviet delegation submitted for the consideration of the Far Eastern Commission another amendment in which a six-month period was provided for the destruction of the Japanese military equipment from the date of the adoption of this decision.

As was shown in the further course of discussion the latter amendment of the Soviet delegation also was not accepted by the Far Eastern Commission. At the last meeting on 5 February, 1948, the Soviet delegation again raised the question of deleting from paragraph 6 the words 'after examination'. As a result of the vote that was taken at that meeting, five Far Eastern Commission members were in favor of the Soviet delegation's proposal, three against and three abstained.

"3. Paragraph 9 - on the destruction of records of military registration of demobilized personnel.

The draft of this paragraph was worded as follows:

'All records of military registration of demobilized personnel from the Army, Navy, Air Forces, gendarmerie and secret police should be confiscated and transferred to the Supreme Commander for the Allied Powers for subsequent destruction. No further records of this nature should be compiled or maintained by the Japanese'.

The Soviet delegation proposed that the following be added at the end of the first sentence of this paragraph:

'.....within a 3 to 6 month period after the adoption by the Far Eastern Commission of this document'.

The Soviet delegation insisted on the adoption of this additional

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wording for the reason that over two years had already elapsed since the defeat of the Japanese Army, and that the demobilization of the former Japanese armed forces had already been completed and there was no more necessity of having such records.

However, in the course of the discussion it became apparent that this amendment of the Soviet delegation was not acceptable to the other members of the Far Eastern Commission, and the Soviet delegation, unwilling to delay the adoption of the document on disarmament as a whole, did not press for the adoption of its amendment to paragraph 9.

"4. The Far Eastern Commission considers it also necessary to inform the public opinion on the question of the consideration by the Commission of the application of Pakistan for membership of the Far Eastern Commission.

In the course of the discussion of this question the United States representative stated that in the opinion of the United States Government, according to the Terms of Reference of the Far Eastern Commission, admission to membership might be done by agreement between governments but that such agreement might be attained either through normal channels or by means of communicating appropriate instructions to their representatives on the Far Eastern Commission. The representative of China raised a question as to the jurisdiction of the Far Eastern Commission to decide upon the admission of additional members. The representative of the Netherlands stated that, in his opinion, the consideration of the question of the admission of Pakistan to membership of the Far Eastern Commission, even though the governments would have communicated instructions to their representatives, was improper, since, according to paragraph 5 of the Terms of Reference of the Far Eastern Commission, the question of admission of new members should be decided upon by agreement of the appropriate governments, and that he did not consider it possible to discuss the question of admission of Pakistan to membership of the Far Eastern Commission. In view of the difference of opinions on this question on the part of the Far Eastern Commission's members, the Soviet representative suggested that the question not be considered at that meeting, in order to give representatives opportunity to ask the views of governments on Pakistan's application, and after that decide whether the application of Pakistan should be put on the agenda of the Commission.

This proposal of the Soviet representative was adopted by the Far Eastern Commission unanimously.

"It is clear from the above-said that the authors of the articles, having illegally obtained the information on the closed meetings of the Far Eastern Commission, published this information in an entirely distorted form, which fact cannot be qualified by the Commission in any other way than as a rude-mannered attempt to misinform public opinion.

"The Far Eastern Commission considers that the appearance of such articles in the press does not contribute to the normal course of the Commission's work."

GENERAL McCOY said that, as he believed was generally understood by representatives, the immediate cause of the decision on the part of the Soviet representative to raise the question of unauthorized press disclosures of Commission business had been an article in "Newsweek" Magazine of 2 February 1948 and similar articles in daily papers which had appeared immediately after the appearance of "Newsweek".

GENERAL McCOY pointed out that FEC-296 was a progress report rather than a final report by the ad hoc committee. However, he added, circumstances seemed to warrant the general discussion of the whole question, which had been requested by the Soviet representative.

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MR. POWLES, MR. STIRLING, MR. FORD, MR. JOVELLANOS, and MR. BANERJI noted that their attendance at the meeting of the ad hoc committee had been entirely in their personal capacities, and that they had been without governmental instructions.

MR. PANYUSHKIN requested that there be an expression of views by representatives as to the Soviet draft press statement.

MR. POWLES said that he was somewhat concerned with the time factor involved, and he wondered whether it was the view of the Soviet representative that the Commission should take some decision at the present meeting, or whether its decision might be postponed until receipt of instructions by all representatives. He pointed out that the nature of any action to be taken at the present meeting would undoubtedly be somewhat different from what it would be if time for mature consideration were allowed. On the other hand, the force of any statement to be made depended in large part on its issuance as early as possible, since the occurrence was rapidly becoming buried in past history.

MR. PANYUSHKIN repeated his wish to hear from other representatives concerning the draft he had submitted. He pointed out that there had been no objection to the proposal that a refutation be prepared. Such an absence of objection he regarded as constituting a recognition that the statement made to the press by the Chairman on 30 January had not been sufficient to refute the falsehoods and distortions which had appeared in the press.

MR. PANYUSHKIN said that in view of the recognition of the necessity for publishing a refutation, in view of the extremely important time factor to which Mr. Powles had referred, and in view of the indications by representatives that they were not authorized at present to express official views on the subject, he would ask that the Chairman issue a refutation which would reflect the actual proceedings at the Commission's meetings along the lines indicated in the Soviet draft. He would of course welcome any observations with which representatives might desire to supplement such a statement. Since, however, he felt that the lack of objection to the Soviet draft had constituted general agreement with its contents, he felt justified in asking that the Chairman's statement correspond to the spirit and contents of the Soviet draft.

DR. KOO said that of course all representatives deplored leakages of information to the press, especially when such leakages served as the basis for misleading statements. He was personally convinced that there was no evidence that any representative on the Commission had been responsible for such leakage. He felt that General McCoy had acted with commendable promptness in issuing a statement which he thought effectively met the distorted press versions.

DR. KOO pointed out that, as had been reported in FEC-296, there had been general approval within the ad hoc subcommittee that there was no necessity for "any further statement beyond the one already released by the Chairman". It had, however, also been agreed that "a decision as to whether or not a statement should be released was not properly within the subcommittee's jurisdiction". Therefore, the first question before the Commission was whether or not any additional statement was required. If a majority should agree on the necessity of some statement it would then be useful to discuss the actual form which the statement should take.

(At this point, Mr. Panyushkin departed the meeting for an urgent appointment and his place was taken by Mr. Tsarapkin.)

DR. KOO pointed out with regard to the timing of the appearance of press articles that it might appear to some representatives that the "Newsweek" article, dated 2 February, had reached the public after the statement by the Chairman, dated 30 January. He himself presumed, however,

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that because of the customary dating of weekly magazines later than their actual circulation, the Chairman's statement had been made subsequent to the appearance of the "Newsweek" article, as well as after the appearance of a similar article in the "Washington Daily News" of 30 January.

He asked whether this impression was correct, and remarked that if it were, a further statement in addition to the Chairman's statement would probably not seem desirable.

GENERAL McCOY said that Dr. Koo's impression was indeed correct, and that the statement which he, as Chairman, had released on 30 January had been in response to the "Newsweek" article dated 2 February, which had appeared 29 January, and in response to similar newspaper articles, including the "Washington Daily News" item of 30 January. He pointed out that mention of the "Newsweek" article in his statement had been purposely omitted, in order that the controversy would not be stimulated by the appearance of his article since mention of the article to which he was replying would have had the effect of referring greater numbers of people to that article than would normally read it. It was therefore with the intention of not stimulating further discussion that his statement had been framed in its somewhat "colorless" form.

GENERAL McCOY said that in replying to newspaper distortions or criticisms, the question inevitably arose of whether the reply would not prolong the discussion it was sought to terminate. To avoid such undesirable prolongation of discussion, the attacked or criticized party invariably had either to suffer in silence or to issue a somewhat non-controversial statement. He had in this case, in his capacity as Chairman, taken the latter course, and, in the interest of saving time, had done so without consulting other representatives. He felt that his statement had succeeded in serving as a reply without at the same time stimulating further discussion. For example, the "New York Times", which had published the substance of his statement, had not referred to the "Newsweek" article by name. On the whole, GENERAL McCOY concluded, the Commission had been both successful and fortunate in dealing with the troublesome question of press relations. Most controversies had been settled in confidence around the Commission table and there had been relatively few occasions when they had been aired in public.

MR. BANERJI said that in the view of his delegation the unauthorized publication complained of raised two questions: The first question had to do with the prestige and honor of the Commission in connection with protection of its proceedings from unauthorized publication. In the present case, his delegation felt that no legal steps were possible, but that the Commission could take note of unauthorized publication which reflected on members of the Commission, and could condemn such unwarranted statements in general terms as disruptive of good relations among members. The second point was with regard to the specific statement proposed by the Soviet representative. He felt that the adoption of the paper in toto might not be free from controversy, and he suggested that the Soviet delegation rest content with the statement made by the Chairman. MR. BANERJI added that it was the view of his delegation that it was open to any delegation to seek and obtain the consent of the Commission to the issuance of its own corrective statement.

GENERAL McCOY recalled, in connection with the remarks made by the Chinese and Indian representatives that the relevant policy of the Commission (FEC-005 and FEC-005/3) approved 1 March and amended 23 April 1946 by the Steering Committee provided:

"The Secretary General is authorized to prepare formal statements on behalf of the Commission for issuance to the press. The last item on each agenda of Commission meetings will be 'Press Release', at which time the Commission may issue particular instructions to the Secretary General with respect to the release for that meeting. The releases will be given the press through the United States Department of State Press Room, which has contact with all interested agencies.

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This authorization is for official releases only and does not limit in any way the freedom of members to make such statements to the press individually as they in their judgment may care to.

"After each Commission meeting the Chairman is authorized to hold a press conference to supplement the press release for such meeting."

It had been on the authority of the last paragraph above, GENERAL McCoy remarked, that he had issued his statement to the press.

MR. POWLES said that the New Zealand delegation wholeheartedly associated itself with the statement issued by General McCoy on 30 January.

With regard to the present course, MR. POWLES pointed out that the article which the Soviet representative desired to refute contained two types of objectionable material. The first type of objectionable material consisted of incorrect statements as to what had happened within the Commission, and the second type of objectionable material consisted of slanderous statements with regard to at least one of the members of the Soviet delegation.

Concerning inaccurate reports of Commission action, MR. POWLES felt that little could be done, since Commission proceedings had hitherto been confidential and since each of the instances mentioned in the "Newsweek" article and also mentioned in the Soviet draft statement had behind it a long history of negotiation. The draft Soviet statement was not, he thought, acceptable in its present form, nor indeed would any statement short of a release of the Commission's minutes give an adequate picture of the involved negotiations concerned. While release of the minutes was worth considering, he felt that one grave objection to such release would be that in future some unscrupulous reporter might produce an inaccurate account of Commission business simply in order to induce the Commission again to publish its minutes.

With regard to the second type of objectionable material, he felt that frank discussion required him to mention the name of Admiral Ramishvili and to state that the attacks on Admiral Ramishvili were, he felt sure, more deplored by representatives than were the inaccurate reports of Commission proceedings. No one who had been associated with Admiral Ramishvili in Commission work could fail to realize that he had been at all times a vigorous and able protagonist of the interests of his Government. However, even in connection with this regrettable feature of the "Newsweek" article, MR. POWLES felt that there was nothing that could be done by the Commission as a whole.

MR. POWLES felt that the one course of action which could and which should be taken by the Commission would be the passage of a resolution associating the Commission unanimously with the statement which had been made by General McCoy. He therefore suggested that the Commission consider the adoption of a resolution along the following lines for release to the press:

"The FAR EASTERN COMMISSION notes the statement issued by the Chairman on 30th of January, 1948,

is aware that such statement was issued as a result of and in reply to the articles appearing in 'Newsweek' dated February 2nd and 'Washington Daily News' dated 30 January,

fully endorses the Chairman's comments on those articles, which in addition to being factually inaccurate were definitely slanderous of the members of one of the Commission's member delegations,

and unreservedly confirms the Chairman's references to the manner in which negotiations have been and are being carried on within the Commission."

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(Mr. Stirling departed the meeting at this point and his place was taken by Mr. Bullock.)

MR. DARIDAN said that the French delegation of course was completely in sympathy with the Soviet position, particularly with regard to the deplorable attack on Admiral Ramishvili. However, he wondered whether it would not be unusual for an international organization to release such a statement as had been proposed by the Soviet representative or to release its own confidential minutes. However, he could agree that some action should be taken and he was prepared to support the New Zealand suggestion to adopt the above resolution.

GENERAL McCOY said that it was his own view, which he felt was shared by all representatives, judging from their remarks, that the most important thing to be considered at present was the effect of the unauthorized press account on the satisfactory and friendly relations between representatives. Therefore, any action taken should be with the primary object of preserving these good relations.

MR. BULLOCK said that the Australian delegation was in full sympathy with the Soviet position regarding the misrepresentation which had appeared in the press. However, he was without instructions from his Government on the point of whether the Commission should issue a statement in refutation.

With regard to the Soviet proposed draft, MR. BULLOCK's position was similar to that of Mr. Powles, and he too felt that no accurate account of the long negotiations on the demilitarization paper could be issued in brief form. To disclose certain of the Commission's confidential proceedings would violate the Commission's established press policy and would, he felt, set a dangerous precedent, since, as Mr. Powles had pointed out, the press might well in future resort to slanderous articles merely for the purpose of forcing the Commission to disclose further portions of its proceedings.

MR. REUCHLIN associated himself with the statements made by Mr. Powles. He wished especially to emphasize his association with the remarks concerning Admiral Ramishvili.

MR. COLLINS said that he too was in full sympathy with the Soviet delegation in connection with the unfortunate articles which had appeared. He also endorsed the statements made by Mr. Powles in connection with the references to Admiral Ramishvili. With regard to immediate steps to be taken, he said that he was without instructions but that he personally doubted the appropriateness of an attempt by the Commission to draft a refutation. Such a draft would be extremely difficult, and there remained the possibility either of endorsing the Chairman's statement or of releasing the Commission's minutes. As to the feasibility of this latter course, he maintained an open mind at the moment.

MR. COLLINS pointed out that negotiations on the demilitarization paper were now concluded and he wondered whether at the time of release of the text of the policy to the press it would be feasible or appropriate to release certain sections of the minutes of the negotiations.

MR. TSARAPKIN said that although representatives had, at the outset, stated that they were not in a position to consider the Soviet draft press statement, subsequent discussion had made it clear that they were willing to assume some degree of responsibility and discuss various proposals. He pointed out that the question was not one of formulating policy for Japan, but was one simply of refuting false and slanderous accounts of Commission proceedings. Therefore, the Commission itself had the right and the responsibility of acting in this case.

Several representatives had taken the view that the Chairman's statement of 30 January adequately met the unauthorized press stories and that therefore a resolution along the lines of the New Zealand suggestion would constitute adequate action at present. However, he pointed out, the Chairman

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himself had recognized his statement as insufficient at the time of the decision to set up an ad hoc drafting subcommittee. Furthermore, even this insufficient statement by the Chairman had received only a narrow circulation in an abridged form in the press.

MR. TSARAPKIN felt that the Chairman's statement could be regarded as sufficient only if the press reports were regarded as merely inaccurate. In fact, however, these reports were not merely inaccurate, but were false and tendentious distortions of Commission proceedings. It was therefore of major importance that the Commission take action to present a true account of its proceedings.

With regard to the view which had been expressed that any adequate rebuttal of the press accounts would destroy the confidential nature of Commission proceedings, MR. TSARAPKIN held such reasoning to be erroneous, in that this concern for the preservation of secrecy would serve as a shield for those who had created the false impression concerning the Commission. He felt that the Commission had the right to defend itself and had a responsibility for deciding to publish a statement correcting the falsehoods which had been promulgated. Since, in the statement proposed by the Soviet delegation, reference had been made only to meetings which had been misrepresented in the press he could see no foundation for the argument that if the Commission were to refute these misrepresentations an extremely exhaustive history would be required. Therefore, his delegation felt very strongly that some statement in a form found appropriate by the Commission should be published. Such a statement he felt would certainly be along the lines indicated in the Soviet proposal.

(Mr. Panyushkin returned to his place at the Commission table at this point.)

GENERAL McCOY said that, as he had pointed out earlier, the Commission had met to consider the progress report of its ad hoc subcommittee. This subcommittee, he recalled, had been formed at the request of the Soviet representative and he wished to take this opportunity to remind the Commission of his own remarks at the time of the formation of the subcommittee, which did not bear out the interpretation that he himself had regarded his own statement as "insufficient":

"At the request of the Soviet Ambassador--and I am very sympathetic with his feelings--the suggestion has been made, and I would put it to the Commission, that an ad hoc committee be formed, and at the request also of the Ambassador, that the Secretary General act as Chairman for the Commission to draft a statement to be given to the press which is more nearly explanatory and better meets the unfortunate situation than the rather colorless statement that the Chairman gave out last week."

The Commission had now received the report of the ad hoc subcommittee, but there was no action proposed other than the Soviet draft, which had not been acceptable to the ad hoc subcommittee, and the informal suggestion by the New Zealand representative concerning a resolution. He inquired as to the wishes of the Soviet representative.

MR. PANYUSHKIN said that he still desired a full expression from representatives as to their views on his proposed draft, and, if there were no objections as to the substance of the draft, he desired the Chairman to publish it. Whether or not the Chairman considered his own statement as insufficient he had (page 6, Minutes, 91st FEC Mtg.) agreed that the ad hoc subcommittee should be formed "to draft a statement which would more adequately meet the situation than had his own statement of 30 January". Since the subcommittee had not prepared such a statement, it seemed to MR. PANYUSHKIN, that the Chairman, who had on his own authority already issued a statement might issue another more adequate refutation of the press accounts. He repeated the view of his delegation that governmental authorization need hardly be awaited where no policy regarding Japan was in question.

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GENERAL McCOY said that he had already issued, in his capacity as Chairman, what he considered an adequate statement to refute the misrepresentations contained in the press. He now regarded the matter as out of the hands of the Chairman and in the hands of the Commission itself, since an ad hoc subcommittee had been expressly designated to handle it. The Soviet proposed draft and the New Zealand informal suggestion were now before the Commission and he repeated his query as to the action desired by the Soviet representative.

MR. PANYUSHKIN said that his wish was for a full refutation of the falsehoods which had appeared in the press on 30 January and in the "Newsweek" article of 2 February. If the Far Eastern Commission did not agree with the proposal of the Soviet delegation that a full refutation of the above-mentioned articles should be published, the Soviet delegation would draw the appropriate conclusions from such fact.

GENERAL McCOY repeated that any action now to be taken would have to be taken by the Commission as such. He had, as Chairman, issued a statement on his own responsibility. It was now a matter for the Commission to act upon, and he desired that action take place in a manner satisfactory, in so far as possible to the Soviet representative. He thought that a motion might be made by the Soviet representative either to act immediately or to defer action on his own proposal. There was also, he pointed out, the informal New Zealand proposal before the Commission for possible action.

MR. PANYUSHKIN pointed out that in General McCoy's statement of 30 January the following sentence was contained:

"In response to numerous queries regarding these reports which carry inaccurate and totally misleading implications, the Chairman has authorized the following statement."

The question therefore arose as to whether the Chairman had acted in response to the queries of private citizens who desired to know the truth. If he had, MR. PANYUSHKIN wondered why the request of an official representative of a member Government of the Far Eastern Commission for a refutation should be denied.

MR. PANYUSHKIN emphasized that the press articles had not been simply inaccurate but had contained distortions and falsehoods, and that therefore he felt a more thoroughgoing statement of refutation than that issued by the Chairman to be required. He referred to the statement by General McCoy on 4 February (page 9, Minutes, 90th FEC Mtg.) to the effect that:

"The only lesson from this regrettable incident is that each person who attends a Commission meeting or who has any responsibility for a confidential Far Eastern Commission document should exercise increasing vigilance to safeguard the security of Far Eastern Commission confidential material, both oral and written."

MR. PANYUSHKIN said he must state that the warning by the Chairman of the Commission on the necessity of an increased vigilance was to no extent applicable to the Soviet delegation. The Soviet delegation had no ~~responsibility~~ ^{relation} for the fact that confidential documents of the Far Eastern Commission had fallen into the hands of dishonest personalities. He therefore ~~must~~ insist once again, he said, that the refutation, the necessity of which had not been questioned by the Chairman and members of the Commission and which would correctly and fully inform public opinion, should be published.

and therefore the Soviet delegation did not bear any responsibility for this fact

GENERAL McCOY observed that during Mr. Panyushkin's absence, he had invited attention to FEC-005 and FEC-005/3, which together comprised the Commission's policy decision on statements to the press. He now wished to invite Mr. Panyushkin's attention to it.

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MR. PANYUSHKIN asked what would prevent the Chairman from releasing a statement worded approximately as the Soviet proposed draft. GENERAL McCOY replied that he had, under his authorization as Chairman, already issued a statement to the press. Once the subject had been put before the Commission, he felt that he could act only in accordance with the wishes of the Commission and that he was no longer free to issue a statement on his own discretion.

MR. PANYUSHKIN requested that the Chairman make, in his own name, a complete and full refutation of the press articles. GENERAL McCOY replied that he had already made what he considered an appropriate statement on his own responsibility, before the matter had been laid before the Commission. He could now act only in accordance with the wishes of the Commission. MR. PANYUSHKIN said that in this case he desired that his proposal be put before the Commission.

DR. KOO said that, as he had pointed out at the beginning of the meeting, the first question to be decided was whether or not a further statement should be issued, in addition to the statement which had been issued by the Chairman. However, several members, in the absence of instructions, had been unable to decide on even this first question, and were of course therefore not prepared to proceed to a consideration of the second question, namely, the form any additional statement should take. He realized that the time element was of extreme importance in regard to any further action to be taken, and he suggested therefore that, pending the receipt of instructions by representatives, the whole subject be referred back to the ad hoc drafting subcommittee for consideration in conjunction with the proposed Soviet draft and the New Zealand suggestion concerning a resolution. The ad hoc subcommittee could attempt to work out a draft and thereby save time, if the eventual instructions awaited by members should favor the issuance of a further statement.

GENERAL McCOY said that if there were no objections he would refer the whole subject of a possible statement for release to the press back to the ad hoc drafting subcommittee for consideration in the light of the foregoing discussion.

MR. FORD said that he wished to reiterate the reservation of the United Kingdom delegation on the subject of whether or not any statement should be issued by the Commission. He referred to the remarks on the subject by Mr. Graves (page 6, Minutes, 91st FEC Mtg.) and said that the United Kingdom position remained unchanged.

ITEM 2 - ATTENDANCE AT INTER-GOVERNMENTAL CONFERENCES (FEC-236/10, SC-236/8; 236 series)

There was no consideration of this subject.

ITEM 3 - a STATEMENT BY THE UNITED STATES REPRESENTATIVE OF THE FAR EASTERN COMMISSION ON REPARATIONS SHARES (FEC-278)

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

There was no discussion of this subject.

ITEM 4 - a RESTITUTION OF LOOTED PROPERTY (FEC-011/40, -/42, -/12, -/21 -/32 through -/39)

b RESTITUTION OF LOOTED PROPERTY: NETHERLANDS SUBSTITUTE (FEC-011/43)

There was no discussion of this subject.

FEC--CONFIDENTIALITEM 5 - ADVANCE TRANSFERS OF JAPANESE REPARATIONS (FEC-201/1)

There was no discussion of this subject.

ITEM 6 - OTHER BUSINESS

There was no other business.

ITEM 7 - PRESS RELEASE

THE COMMISSION unanimously agreed that no statement regarding the foregoing proceedings should be released to the press.

The meeting adjourned at 12:55 P.M.

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FEC-CONFIDENTIALMINUTES-94th FEC Mtg.19 February 1948FAR EASTERN COMMISSION

Minutes of the Ninety-fourth Meeting of the Far Eastern Commission,
Held in the Main Conference Room, 2516 Massachusetts Avenue, N.W.,
Washington, D. C.
19 February 1948, 10:30 A.M.

REPRESENTATIVES PRESENT

Major General Frank R. McCoy (Chairman) (United States)
Mr. A. Stirling (Australia)
Mr. R. E. Collins (Canada)
His Excellency Dr. Wellington Koo (China)
His Excellency Mr. P. E. Nagaiar (France)
Mr. R. K. Nehru (India)
Mr. O. Reuchlin (Netherlands)
Mr. G. R. Powles (New Zealand)
Mr. J. U. Jovellanos (Republic of the Philippines)
His Excellency Mr. A. S. Panyushkin (U.S.S.R.)
Mr. J. F. Ford (United Kingdom)

SECRETARY GENERAL

Mr. Nelson T. Johnson

NOTE: 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.

Minutes, 94th FEC Meeting

SUMMARY--FECFEC--CONFIDENTIALSUMMARY-94th FEC Mtg.19 February 1948FAR EASTERN COMMISSIONSUMMARY OF MINUTES OF 94th MEETING

- ITEM 1 - a APPROVAL OF THE MINUTES OF THE NINETY-SECOND MEETING
b APPROVAL OF THE MINUTES OF THE NINETY-THIRD MEETING

Amended and approved.

- ITEM 2 - CHAIRMAN AND DEPUTY CHAIRMAN OF COMMITTEE NO. 6: ALIENS IN JAPAN (FEC-004/38)

Approved.

- ITEM 3 - ATTENDANCE AT INTER-GOVERNMENTAL CONFERENCES (FEC-236/10, SC-236/8; 236 series)

Further consideration of N.Z. motion to approve FEC-236/10 postponed until next meeting.

- ITEM 4 - PROPOSAL OF THE U.S.S.R. DELEGATION TO REVIEW THE DECISION OF THE SUPREME COMMANDER FOR THE ALLIED POWERS TO SEND A MEMBER OF HIS STAFF TO THE PROVISIONAL FREQUENCY BOARD TO MEET AT GENEVA (FEC-290/1, FEC-290)

Not considered.

- ITEM 5 - a STATEMENT BY THE UNITED STATES REPRESENTATIVE OF THE FAR EASTERN COMMISSION ON REPARATIONS SHARES (FEC-278)

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

Not considered.

- ITEM 6 - a RESTITUTION OF LOOTED PROPERTY (FEC-011/40, -/42, -/12, -/21, -/32 through -/39)

- b RESTITUTION OF LOOTED PROPERTY: NETHERLANDS SUBSTITUTE (FEC-011/43)

Not considered.

- ITEM 7 - ADVANCE TRANSFERS OF JAPANESE REPARATIONS (FEC-201/1)

Not considered.

- ITEM 8 - OTHER BUSINESS

None.

- ITEM 9 - PRESS RELEASE

None.

FEC--CONFIDENTIALITEM 1 - a APPROVAL OF THE MINUTES OF THE NINETY-SECOND MEETING

MR. NEHRU requested that the seventh full paragraph on page 8 of the minutes of the ninety-second meeting be amended to read:

"MR. BANERJI said that in the particular case, in view of the last sentence of the Soviet Representative's statement, he felt that the Soviet abstention was an abstention from the exercise of the veto. While this was only a personal opinion, he thought that if the Soviet Representative could state clearly whether or not his abstention had been intended as a veto of FEC-017/17, the Commission could act in accordance with that intention."

MR. STIRLING requested that the second sentence of the penultimate paragraph on page 9 of the minutes of the ninety-second meeting be amended to read:

"Therefore, in the present situation, MR. BULLOCK said, when a veto power in effect offered to waive its right of veto, he felt the response should not be a legalistic seeking for fine shades of meaning in the Terms of Reference that might have the effect of continuing the veto."

b APPROVAL OF THE MINUTES OF THE NINETY-THIRD MEETING

MR. PANYUSHKIN requested that the second and third sentences of the penultimate paragraph on page 9 of the minutes of the ninety-third meeting be amended to read:

"The Soviet Delegation had no relation to the fact that confidential documents of the Far Eastern Commission had fallen into the hands of dishonest personalities, and therefore the Soviet Delegation did not bear any responsibility for this fact. He therefore insisted once again, he said, that the refutation, the necessity of which had not been questioned by the Chairman and members of the Commission and which would correctly and fully inform public opinion, should be published."

THE COMMISSION unanimously approved the minutes of its ninety-second and ninety-third meetings with the above changes.

ITEM 2 - CHAIRMAN AND DEPUTY CHAIRMAN OF COMMITTEE NO. 6: ALIENS IN JAPAN
(FEC-004/38)

THE COMMISSION unanimously approved the recommendation that Mr. Paul Guerin and Mr. M. B. Thresher be elected Chairman and Deputy Chairman respectively of Committee No. 6: Aliens in Japan.

ITEM 3 - ATTENDANCE AT INTER-GOVERNMENTAL CONFERENCES (FEC-236/10, SC-236/8;
236 series)

GENERAL McCOY said that the version of this proposed policy which had been forwarded from Committee No. 4 to the Steering Committee (SC-236/5) had been acceptable to his Government. However, in the Steering Committee the proposal had been amended and in this amended form had been forwarded to the Far Eastern Commission by a vote of 7 to 3, over the opposition of the United States, the United Kingdom, and Canada.

MR. POWLES pointed out, in connection with the background of the present proposal, that the original paper (FEC-236) had been submitted by the New Zealand Delegation and had been intended to deal with the general question of both inter-governmental and cultural exchange of persons. During subsequent consideration of the proposal in committee these two subjects had been separated. The present paper, having undergone various modifications in the working committee and in the Steering Committee, was now back in a

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form almost identical with that portion of the original New Zealand proposal which had dealt with attendance at inter-governmental conferences. The other portion of the subject, general cultural interchange, was, in a form greatly changed from the New Zealand proposal, still before Committee No. 4.

MR. POWLES thought that the very fact that the present paper, after numerous amendments, was now before the Commission in a form closely resembling the original New Zealand proposal indicated a fundamental difference of view and he thought that the whole situation would be clarified if the Commission would take a vote on the present paper. He fully realized that the paper would not be adopted, but, once it were disposed of, the way would be opened for those who desired some policy on the subject to submit fresh proposals.

MR. POWLES moved and MR. JOVELLANOS seconded the motion that FEC-236/10 be adopted as a policy decision.

MR. NAGGIAR said that he considered it quite proper for the Commission to take a stand on this subject. The Commission, he felt, was the proper authority to decide, in the period before a peace treaty, in what capacity Japanese technical experts should be permitted to attend inter-governmental conferences whenever their attendance was deemed necessary. However, although the French Delegation had supported the present paper at the Steering Committee, it had subsequently sought instructions of its Government and since these instructions had not yet been received, MR. NAGGIAR said that he would have to abstain if the matter were voted on.

DR. KOO pointed out that among the three Governments which had opposed the present proposal at the Steering Committee were two of those whose concurrence was required to ensure adoption of the policy. He wondered whether any possibility remained for a reconciliation of views on this subject in the Steering Committee or in the working committee. A vote at the present time, he said, would accomplish nothing, whereas if there remained any hope of reaching a compromise, a ~~present~~ postponement might result in the ultimate adoption of a policy. If there were any remaining hope for compromise, he would be prepared to move a revision of the paper which would provide that non-Japanese members of the Supreme Commander's staff be allowed to attend inter-governmental conferences at the discretion of the Supreme Commander, subject to review by the Commission. It was proper, however, DR. KOO thought, to provide for the prior approval of the Commission for the accompaniment of such observers by Japanese technical personnel in view of the feeling of opposition within Allied countries against the inclusion of Japanese persons among those who attended international conferences. If all hope of compromise had not been exhausted, he would suggest that the matter be referred, with his proposal, to a ~~lower~~ committee for further consideration in the hope that a Commission vote, when taken, would not have a merely negative result.

GENERAL McCOY said that he was of course always willing to consider any suggested compromise which might offer a basis for unanimity. However, inclusion of provisions in the present proposal which constituted implementation would not be acceptable to the United States Government. His Government desired, and the Supreme Commander desired, that there be a Commission policy on this subject, but FEC-236/10 contained a prescription by the Commission as to how its policy should be carried out and therefore raised the whole question of the Commission's appropriate functions as a policy-making body. It exhibited anew the tendency of the Commission, which had always caused the United States Government great concern, to insert implementing provisions in its policy decisions.

GENERAL McCOY said that the only compromise that would be acceptable to his Government would be the substitution of SC-236/5 for the present proposal, and the insertion, in SC-236/5, of the word "technical" before the words "inter-governmental conferences". The purpose of this limitation to technical inter-governmental conferences would be to meet the apprehensions of

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those who had felt that without such limitation SC-236/5 would constitute authorization to the Supreme Commander to send members of his staff, possibly attended by Japanese technical observers, to other than technical inter-governmental conferences, such as conferences preparatory to the peace conference.

MR. FORD noted that the United Kingdom Delegation had voted against FEC-236/10 at the time of its forwarding by the Steering Committee. The paper was not in accord with the general United Kingdom position which favored a liberal policy regarding attendance of Japanese at inter-governmental conferences. The Japanese, he thought, should be brought into as much contact as possible with the delegates of other countries at inter-governmental conferences, particularly conferences on technical subjects. There was nothing to be gained, he said, by shutting off the Japanese from the rest of the world. It was therefore desirable that the Supreme Commander should take a reasonable amount of initiative in this matter, but under the terms of FEC-236/10 his initiative would be seriously hampered, and he could indeed act only after the Far Eastern Commission had approved the course he proposed. In the face of the well-known difficulties in reaching unanimity in the Commission it was clear that the Supreme Commander would be under too great restriction if such a policy were adopted.

GENERAL McCOY said that he too considered it impractical for each invitation involving attendance at inter-governmental conferences to be referred to the Commission for approval. It was impossible for the representatives on the Commission to have the background of knowledge of conditions in Japan which was necessary in order to judge the value of attendance by SCAP observers at any given conference. Furthermore, it was improper for the Commission to direct its own executive in Japan as to the functions he should assign to members of his own staff. The Terms of Reference made it clear that the Commission was empowered to adopt broad policy measures but was not empowered to concern itself in the implementation of these policies and so hinder the Commission's executive in Japan in his implementation of them.

MR. FORD said that in regard to the suggestion offered by Dr. Koo, he did not himself know how good the chances of compromise on this subject might be, but would personally like to see a further attempt at compromise. In any event, his Delegation desired further time, and would not wish to see the proposed policy put to a vote at the present meeting.

MR. POWLES pointed out that there had been a great deal of time, since the original proposal by his Delegation in June 1947, for consideration of the subject and adoption of a policy. He thought that since a fundamental difference hindered agreement on FEC-236/10 the best course would be to bring it to a vote, get it out of the way, and so make possible fresh proposals on the subject on the part of any interested delegation. Any effort for compromise on the basis of the present paper, he was convinced, would be futile. There was a responsibility, he felt, on the part of the Commission to its own committees to clear such matters from the agenda and so open the way for new proposals.

MR. PANYUSHKIN said that the paper on attendance of Japanese at inter-governmental conferences, which was under discussion of the Commission, was devoted to one of the political questions regarding which the Far Eastern Commission should adopt a decision. He agreed with the New Zealand Member that it was impossible further to postpone the adoption of a decision on this question. As for a compromise of which Dr. Koo had spoken here, compromises as such were permitted sometimes and in the practical work of the Commission such compromises had taken place. However, in this particular case it was impossible to compromise, since in reality Dr. Koo proposed that the Far Eastern Commission should transfer to the Supreme Commander its rights independently to decide the question regarding the attendance of non-Japanese observers at inter-governmental conferences. As was well known, MR. PANYUSHKIN pointed out, the right to decide questions regarding the attendance of non-Japanese observers at inter-governmental conferences

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belonged only to the Far Eastern Commission and the transfer of these rights to somebody else would be in contradiction to the Terms of Reference of the Far Eastern Commission. Proceeding from this provision the following wording of paragraph 2 had been prepared:

"The Supreme Commander may appoint non-Japanese members of his staff to participate as non-voting observers at inter-governmental conferences whenever the Far Eastern Commission decides that this is desirable."

As for the practical objections of the distance of the Commission from Japan and the lack of detailed background on the part of the Commission as to conditions in Japan, MR. PANYUSHKIN said that he could not regard such objections as serious in face of modern methods of communications.

Any postponement of a decision on FEC-236/10, he emphasized, would only injure the work of the Commission.

MR. PANYUSHKIN said that the Soviet Delegation was prepared to vote for ~~the substance of~~ FEC-236/10 though it would prefer a change in the title to "Attendance of Japanese at Inter-Governmental Conferences".

GENERAL McCOY and MR. POWLES remarked that the title suggested by the Soviet Representative was somewhat misleading since the policy itself dealt with members of the staff of the Supreme Commander and not with Japanese technical personnel alone.

MR. PANYUSHKIN said that he could not agree with the New Zealand Representative to the effect that the addition of the word "Japanese" in the title of the paper would be misleading for the understanding of the paper itself. This word not only would not be misleading but, on the contrary, it should be used in the title since the whole paper was devoted to Japan, i.e., whether or not to permit the Japanese to attend inter-governmental conferences. At the beginning of the paper it was said that Japanese nationals should not be permitted to attend inter-governmental conferences, et cetera, that is, the paper was devoted just to Japanese.

However, MR. PANYUSHKIN added, if this additional word--which the Soviet Delegation considered to be absolutely appropriate, correct, and necessary in order to give a proper title to this paper--would constitute an obstacle to voting on this paper, he would not insist on its inclusion.

MR. NEHRU said that although he fully appreciated the New Zealand position with regard to an early vote on SC-236/10, he nevertheless felt that the Chinese suggestion regarding compromise was valuable and he felt that any possibilities of compromise should be fully explored. With regard to the United States suggestion that SC-236/5 be adopted, he said that although the Indian position was in full accord with the desire to exclude Japanese nationals from inter-governmental conferences, it was recognized that attendance by some of these nationals as technical assistants to members of the Supreme Commander's staff might be necessary. Therefore, the suggestion made by General McCoy afforded a possible solution to the problem confronting the Commission.

MR. NEHRU said that it was not clear to him what the term "inter-governmental conferences" referred to. Presumably inter-governmental conferences under the auspices of the United Nations were meant, and it was relevant to point out that invitations for attendance at such conferences were issued by the United Nations organization concerned. If, however, inter-governmental conferences other than those under United Nations auspices were meant, then the scope of the present paper would be extremely limited. In any event, it was desirable to eliminate unnecessary delay, and he therefore felt that attendance by Japanese technical assistants at conferences where their presence was necessary would be facilitated by adoption of the United States suggestion.

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He asked whether the Supreme Commander could accept invitations from the United Nations in the absence of a Commission policy. GENERAL McCOY replied that he could not, if FEC-236/10 were adopted, but that under the provisions of SC-236/5 he would have authority to accept such invitations.

MR. NAGGIAR said that he favored the proposal that further steps be taken toward compromise and that, in spite of the Soviet view that no compromise was possible, he thought that some possibility for it remained. It seemed to him useful to distinguish between political and technical conferences. He thought that, under the Terms of Reference, the Supreme Commander could send representatives to a technical conference, and intervention by the Commission would be appropriate only for the purposes of review. However, if a political conference were in question, it was his personal opinion that the Supreme Commander could send a representative only after a favorable decision by the Commission. If the policy were intended to bear only on technical conferences, he concluded, the provisions of FEC-236/10 were not appropriate, and it might prove useful to reconsider SC-236/5, as General McCoy had suggested.

GENERAL McCOY said that it was clear that under the Terms of Reference it was the function of the Commission to formulate "policies, principles and standards" and that the Supreme Commander was "charged with the implementation of the directives which expressed the policy decisions of the Commission". Under the present proposal, however, the Commission itself would have, first, to approve attendance at each inter-governmental conference before the Supreme Commander could send a member of his staff to attend it and, secondly, would have to decide in each case whether the Supreme Commander might designate Japanese technical experts to accompany members of his staff. He said that during the coming months the Supreme Commander might find it advisable that members of his staff, sometimes accompanied by Japanese technical experts, should attend inter-governmental conferences which would consider subjects of importance to the Allied occupation of Japan. It was therefore advisable that the Commission adopt a policy decision. However, it should be a policy decision of the kind described in the Terms of Reference, and should not in effect constitute the Commission a part of the Supreme Commander's administration. In addition to the principle of conformity to the Terms of Reference, there was the question of practicality. It would often be necessary for the Supreme Commander to reply quickly to invitations to send representatives to conferences and, in the judgment of the United States Government there was no justifiable hope that the Commission would be able, in ample time, to decide whether each invitation should be accepted or declined, and whether, if accepted, the Supreme Commander might or might not include Japanese technical experts.

MR. NAGGIAR asked whether the United States proposal would mean that attendance by Japanese technical personnel would be subject to review by the Commission, as well as attendance by non-Japanese members of the Supreme Commander's staff. GENERAL McCOY replied in the affirmative.

MR. REUHLIN said that the Netherlands Delegation had abstained from voting at the Steering Committee on FEC-236/10 and that it would again abstain if the paper were put to a vote at the Commission. The basis for this abstention was, on the one hand, agreement with the United States position that the proposal encroached on the jurisdiction of the Supreme Commander in that it constituted an effort at implementation. On the other hand, however, there was disagreement with the United States position that the Supreme Commander's actions should be entirely free of control by the Commission. If SC-236/5 should be adopted, he pointed out, the Commission's only basis for control would be the review provided and, under the Commission's voting procedure a decision to review could always be vetoed by the United States Delegation. Since SC-236/5 had been proposed as a compromise, he wished to point out that in his opinion it would in fact constitute a genuine compromise only if it included an additional clause to the effect that its adoption was "on the understanding that the rules for concurrence as expressed in paragraph V, 2 of the Terms of Reference do not apply at the time of such review".

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MR. REUHLIN referred to the Terms of Reference of the Allied Council for Japan which provided in paragraph 5 that the Supreme Commander "will consult and advise with the Council in advance of the issuance of orders on matters of substance....." He asked whether there had been such consultation in connection with attendance by SCAP representatives at the Trade Conference in Havana and at the Communications Conference in Geneva. GENERAL McCOY replied that it was not his understanding that the Supreme Commander was obliged to consult the Allied Council in such matters.

MR. POWLES said that there was no intention on the part of his Delegation to adopt a policy which infringed on implementation. However, he was convinced that a decision as to whether an observer should go to a conference on behalf of the Supreme Commander was a decision of policy, and, since circumstances regarding different conferences varied so greatly, a separate decision would be required in each case. To give the Supreme Commander blanket authority regarding all inter-governmental conferences would, he felt, be a failure on the part of the Commission to exercise its proper authority. It was the New Zealand view that whenever the Commission had authorized the Supreme Commander to send observers to conferences such observers might be accompanied by Japanese technical personnel.

GENERAL McCOY asked whether Mr. Powles deemed it practical, in the light of experience of difficulties in reaching decisions, for the Commission to attempt to pass on each inter-governmental conference to which attendance by SCAP representatives were contemplated. MR. POWLES replied that he was convinced that the Commission should make the attempt, and if the Commission did not succeed, there was always the reserve power in the Terms of Reference designed to meet such situations.

DR. KOO pointed out that there were various steps involved with regard to the acceptance of an invitation for attendance by SCAP observers at an inter-governmental conference. The first step would have to be a decision as to whether to send a representative at all. He was not prepared to say whether or not this step in itself might sometimes be a political decision. If an affirmative decision were made, the next step would be implementation, since it would consist simply of the appointment of an observer to attend. As for the further decision of whether Japanese technical personnel might accompany a SCAP observer this decision might be considered as partly implementation and partly a political decision, but in any case the Supreme Commander could appoint non-Japanese technical personnel to accompany his observer. Therefore, the ~~whole question of~~ ^{suggested need} the accompaniment of observers by Japanese technical personnel was of secondary importance, since the Supreme Commander could unquestionably appoint technical personnel of any nationality other than Japanese.

DR. KOO emphasized the desirability of the adoption of a policy decision on this subject. If FEC-236/10 were put to a vote, it was clear that the paper would be defeated and that, in the absence of a policy decision, action would be left entirely to the discretion of the Supreme Commander. He repeated his suggestion that compromise be attempted and said that he would be prepared to move that the second paragraph of FEC-236/10 be amended as follows:

"Japanese nationals should not be permitted to attend inter-governmental conferences in any capacity except as provided herein. Subject to review by the Far Eastern Commission. ~~The~~ Supreme Commander may appoint non-Japanese members of his staff to participate as non-voting observers at technical inter-governmental conferences. ~~whenever the Far Eastern Commission decides that this is desirable.~~ These observers may be accompanied by Japanese technical personnel when deemed necessary by the Far Eastern Commission."

MR. JOVELLANOS said that the Philippine position consistently had been that the Supreme Commander might decide, subject to Commission review, on the sending of non-Japanese members of his staff as observers to inter-governmental conferences, but that no Japanese should be allowed to ~~leave~~ ^{attend such} Japan ~~before the peace conference.~~ ^{Conferences} However, there might be special circum-
^{before the peace}
^{treaty with Japan}
^{had been concluded}

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stances involving the need for such Japanese technical personnel and in such circumstances the Commission's decision should be controlling.

In view of this position, MR. JOVELLANOS ^{said he would be prepared to second} seconded the Chinese motion to amend FEC-236/10 as shown above.

GENERAL McCOY asked whether, in the light of the suggestions which had been made it would not be useful to refer the whole subject to an ad hoc subcommittee of the whole Commission for consideration with a view to preparing an acceptable compromise.

MR. PANYUSHKIN said that he would not favor reference of the subject to an ad hoc subcommittee and would prefer that a vote be taken on FEC-236/10 at the present meeting. With regard to the suggested amendment of Dr. Koo that the second sentence should begin with the words "Subject to review by the Far Eastern Commission", he pointed out that in reality this amendment did not change the meaning of the wording suggested by the United States Delegation in SC-236/5, which was unacceptable to the Soviet Delegation.

As for General McCoy's statement that the Far Eastern Commission should not become a part of the Supreme Commander's administration, i.e., that there was, allegedly, in the Far Eastern Commission a tendency to interfere in the prerogatives of the Supreme Commander in questions of policy implementation, MR. PANYUSHKIN stated that the Soviet Delegation could not agree with this statement by General McCoy. In this particular case the Commission was concerned not with the implementation of an adopted decision but with adopting a policy decision concerning the sending of non-Japanese observers to inter-governmental conferences and this right--the right to decide whether such observers should be sent--belonged only to the Far Eastern Commission.

MR. PANYUSHKIN concluded that since this paper was an important one and since its discussion had already been delayed for nine months, the Far Eastern Commission could not postpone any further the adoption of a decision on this question.

DR. KOO said that he would support General McCoy's suggestion that the subject be referred to an ad hoc subcommittee. He was all the more convinced after hearing the Soviet statement, that further efforts at compromise should be made. Apparently, the use of the word "technical" carried implications which he had not foreseen. He had thought that insertion of the word would usefully limit the conferences affected, but the remarks of the Soviet Representative led him to believe that even this proposal might usefully be examined by an ad hoc subcommittee. He said that his intention in placing the phrase regarding review at the beginning of the second sentence in paragraph 2 rather than at the end of the paragraph, as in SC-236/5, had been to make the review provision refer only to the Supreme Commander's decision to send non-Japanese members of his staff as observers to inter-governmental conferences. The Supreme Commander would be left free to appoint non-Japanese technical personnel to accompany such observers, but could appoint Japanese technical personnel only with prior Commission approval.

GENERAL McCOY asked whether there was any objection to reference of the subject in the light of the foregoing discussion to an ad hoc subcommittee of the whole for a report at the next meeting of the Commission.

MR. POWLES and MR. PANYUSHKIN stated their preference for an immediate vote rather than reference of the subject to an ad hoc subcommittee.

DR. KOO moved and MR. NEHRU seconded the motion that further consideration of the New Zealand motion to adopt FEC-236/10 be postponed until the next meeting. The motion was carried by a vote of 8 to 3 (New Zealand, Philippine Republic, U.S.S.R.)

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MR. PANYUSHKIN stated that in his opinion there had taken place at today's meeting a violation of the principle of democratic consideration and voting on questions, which principle was adhered to by international organizations. As was known, he said, the rights and duties of members of the Far Eastern Commission were determined by the appropriate provisions according to which all members of the Far Eastern Commission had a full right to submit for consideration and put to a vote any proposal they wished.

At the present meeting, MR. PANYUSHKIN continued, all the formalities had been observed with regard to the New Zealand motion to vote on FEC-236/10; even the formality of a second, which he did not consider necessary, had been observed. However, no vote had been taken.

In the opinion of the Soviet Delegation, MR. PANYUSHKIN stated, the Chairman of the Commission had had no grounds for not taking a vote on the document in question.

In view of this, MR. PANYUSHKIN emphasized, he considered that at the present meeting there had been on the part of the Chairman of the Commission a violation of the voting procedure. MR. PANYUSHKIN asked that this statement be recorded in the minutes.

MR. REUHLIN said that he agreed with the Soviet Representative's views as to the procedure. It was his opinion that the New Zealand motion had been properly before the Commission and that the motion by Dr. Koo to defer consideration was not in order.

With reference to the procedural point raised by the Soviet Ambassador, MR. NEHRU said that as the seconder of Dr. Koo's motion, he felt obliged to point out that a motion to postpone consideration of an original motion was perfectly normal parliamentary procedure and always had to be disposed of before the original motion itself could be voted on. For that reason the Commission had been entirely in order in voting on Dr. Koo's motion.

On a motion by MR. REUHLIN, THE COMMISSION unanimously agreed to adjourn.

The meeting adjourned at 1:00 P.M.

COPY NO. 142FEC-CONFIDENTIALMINUTES-95th FEC Mtg.26 February 1948FAR EASTERN COMMISSION

Minutes of the Ninety-fifth Meeting of the Far Eastern Commission,
Held in the Main Conference Room, 2516 Massachusetts Avenue, N.W.,
Washington, D. C.,
26 February 1948, 10:30 A.M.

REPRESENTATIVES PRESENT

Major General Frank R. McCoy (United States) (Chairman)
Mr. A. Stirling (Australia)
Mr. H. W. Bullock
Mr. R. E. Collins (Canada)
His Excellency Dr. V. K. Wellington Koo (China)
His Excellency Mr. Paul E. Naggiar (France)
Mr. S. N. Banerji (India)
Mr. O. Reuchlin (Netherlands)
Mr. G. R. Powles (New Zealand)
Mr. J. U. Jovellanes (Republic of the Philippines)
Mr. S. K. Tsarapkin (U.S.S.R.)
Mr. J. F. Ford (United Kingdom)

SECRETARY GENERAL

Mr. Nelson T. Johnson

NOTE: 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.

Minutes, 95th FEC Meeting

COPY NO. 216FEC--CONFIDENTIALCORRIGENDUM--95th FEC Mtg.26 February 1948FAR EASTERN COMMISSIONCORRIGENDUMTOMINUTES OF THE NINETY-FIFTH FAR EASTERN COMMISSION MEETINGNote by the Secretary General

1. The attached pages, embodying revisions of pages 5, 7, and 8 of the minutes of the ninety-fifth meeting of the Commission, are circulated herewith for the information of the Far Eastern Commission.

2. All Representatives are requested to substitute the attached pages for pages 5, 7 and 8 of their copies of the minutes of the ninety-fifth meeting of the Commission.

NELSON T. JOHNSON
Secretary General

Corrigendum--Minutes, 95th FEC Mtg.
26 February 1948

SUMMARY-FECFEC-CONFIDENTIALSUMMARY-95th FEC Mtg.26 February 1948FAR EASTERN COMMISSIONSUMMARY OF MINUTES OF 95TH MEETINGITEM 1 - APPROVAL OF THE MINUTES OF THE NINETY-FIFTH MEETING 94th

Amended and approved.

ITEM 2 - ATTENDANCE AT INTER-GOVERNMENTAL CONFERENCES (FEC-236/10, SC-236/8; 236 series)

Motion to adopt FEC-236/10 lost, there being no majority of all the representatives concurring.

ITEM 3 - PROPOSAL OF THE U.S.S.R. DELEGATION TO REVIEW THE DECISION OF THE SUPREME COMMANDER FOR THE ALLIED POWERS TO SEND A MEMBER OF HIS STAFF TO THE PROVISIONAL FREQUENCY BOARD TO MEET AT GENEVA (FEC290/1, FEC-290)

Discussed and postponed.

ITEM 4 - CHAIRMAN OF COMMITTEE NO. 3: CONSTITUTIONAL AND LEGAL REFORM (FEC-004/41)

Approved.

ITEM 5 - SOVIET PROPOSAL CONCERNING PLANNED CREDITS FOR THE RECONSTRUCTION OF JAPANESE INDUSTRY (FEC-289; C2-026/50)

Not considered.

ITEM 6 - a STATEMENT BY THE UNITED STATES REPRESENTATIVE OF THE FAR EASTERN COMMISSION ON REPARATIONS SHARES (FEC-278)b REPORT OF COMMITTEE NO. 1 TO THE FAR EASTERN COMMISSION REGARDING DIVISION OF REPARATIONS SHARES (FEC-219/25, 219 series)

Not considered.

ITEM 7 - a RESTITUTION OF LOOTED PROPERTY (FEC-011/40, /42, FEC-011/12, /21, /32 through /39)b RESTITUTION OF LOOTED PROPERTY: NETHERLANDS SUBSTITUTE (FEC-011/43)

Discussed and postponed.

ITEM 8 - ADVANCE TRANSFERS OF JAPANESE REPARATIONS (FEC-201/1)

Not considered.

ITEM 9 - OTHER BUSINESS

None.

ITEM 10 - PRESS RELEASE

None.

Summary, Minutes, 95th FEC Mtg.
26 February 1948

FEC-CONFIDENTIALITEM 1 - APPROVAL OF THE MINUTES OF THE NINETY-FOURTH MEETING

MR. JOHNSON invited attention to the following change requested by the Soviet representative:

Page 4, second line of third full paragraph - delete the phrase "the substance of".

DR. KOO requested the following changes:

Page 2, fourth full paragraph -
Seventh line - delete the word "present".
Penultimate line - delete the word "lower".

Page 6, fourth line from end of fourth paragraph - substitute the words "suggested need" for "whole question".

MR. JOVELLANOS requested that the phrase "to leave Japan before the Peace Conference" in the last two lines on page 6 be amended to read "to attend such conferences before the peace treaty with Japan had been concluded". MR. JOVELLANOS also requested that the phrase "said he would be prepared to second" be substituted for the word "seconded" in the first full paragraph on page 7.

THE COMMISSION unanimously approved the minutes of its ninety-fourth meeting with the foregoing changes.

ITEM 2 - ATTENDANCE AT INTER-GOVERNMENTAL CONFERENCES (FEC-236/10, SC-236/8; 236 series)

GENERAL McCOY said that he realized that a certain amount of confusion existed as to the procedural situation regarding the motion to approve FEC-236/10 which had been made by the New Zealand representative at the last meeting of the Commission (page 2, Minutes, 94th FEC Meeting). He therefore felt it appropriate to summarize his understanding of this procedural situation. He recalled that the motion had been made by the New Zealand representative and seconded by the Philippine representative. A long discussion had ensued during which various proposals and suggestions had been advanced, including the suggestion that the paper be referred to an ad hoc subcommittee. None of these proposals, however, had been advanced by formal amendment. There had finally been a motion by the Chinese representative, seconded by the Indian representative, that the motion "not be voted on today". He had ruled that this motion, which had been supported by a vote of 8 to 3, was in the class of procedural motions which would take precedence over the principal motion to approve the paper. Support for this opinion could be found in such manuals of practice as Robert's Rules of Order and also, as Mr. Nehru, the seconder of the motion, had pointed out (page 8, Minutes, 94th FEC Meeting) in the practice of various organs of the United Nations.

GENERAL McCOY said that the original New Zealand motion to approve FEC-236/10 was now before the Commission for further discussion and vote.

MR. REUHLIN recalled that he had opposed the Chairman's ruling at the last meeting to put the Chinese motion to postpone to a vote. In view of his position at that time and in view of the remarks just made by the Chairman, he wished to make it clear that he now was in agreement with the Chairman's interpretation of the procedural situation.

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MR. NAGGIAR said that he was now prepared to state the official views of his Government: The French Government did not consider that the proposed policy decision dealt with the main question of principle. It was the French view that the main question of principle to be decided was not whether Japanese nationals might be present at international conferences but rather whether occupied Japan might, through the Supreme Commander, be admitted to participation in inter-governmental conferences.

On this main question of principle, MR. NAGGIAR said, it was the view of the French Government that in certain cases it would be in the interest of the Allied Powers and in the interest of good administration in Japan for occupied Japan to be admitted to inter-governmental conferences, but the question of principle involved would have to be dealt with at governmental level, either through normal diplomatic channels or through the Commission. In the absence of a Commission policy, a sponsoring or host government would have to decide, after consultation with other governments participating in the conference, whether occupied Japan should be invited to attend. Such a course, he said, would be followed by the French Government in any cases where France was acting as host to a conference. Of course, once a Commission policy were adopted, it would be controlling, but until a policy were adopted, his Government would feel obliged to abide by the agreement among the member Governments regarding the function of the United States Government in Japanese affairs, and would therefore consider that the proper procedure in issuing an invitation to occupied Japan for attendance at an inter-governmental conference would be for the host government to transmit the invitation either through normal diplomatic channels or through its representative on the Commission, to the United States Government. Only by following such a procedure, MR. NAGGIAR emphasized, would proper regard be given the functions under the Terms of Reference of the Supreme Commander and of the United States Government.

If FEC-236/10 were to be voted on, MR. NAGGIAR said, he would have to abstain from voting because of the French view that the paper failed to deal with the issue of principle involved.

MR. COLLINS said that if a vote on FEC-236/10 were taken at the present meeting, he would have to vote against the paper. In explaining his position he said that he did not wish to discuss the issue of implementation versus policy; the boundary between the two was obscure and the questions leading to an effort to distinguish between the two were often delicate. It seemed clear that if the United States reasoning on the subject were followed, then a policy decision in this case would not only be unnecessary but presumptuous. His Government's view was not in accord with such a position, since it considered a policy decision desirable and considered that the Commission should clearly indicate the basis on which representatives on behalf of Japan or on behalf of the Supreme Commander should be permitted to attend inter-governmental conferences. So long as the Commission made it clear that such representation on behalf of the Supreme Commander should take the form only of non-voting observers, he felt that international security and the position of the Commission would be adequately safeguarded. It would be both unnecessary and impractical to require a Commission decision each time it were proposed to send an observer. With regard to Japanese technical personnel, it was the Canadian position that the interests of the Allies would be best served by fostering the maximum practicable contact between the Japanese and the Allies as a measure for assisting in the democratization of Japan. In this connection, security would be adequately safeguarded by the Supreme Commander's screening procedures,

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and, again, he felt it administratively impractical for the Commission to attempt to reach a decision in each particular instance. Therefore, MR. COLLINS regarded the earlier version of the paper (SC-236/5) as preferable and he would have to oppose FEC-236/10 if it were voted on.

MR. STIRLING said that FEC-236/10 embodied the policy favored by the Australian Government. The Australian view, which had been repeatedly expressed, that it was undesirable for Japanese to attend inter-governmental conferences, remained unchanged, and he would therefore vote for the paper.

DR. KOO said that as he had stated at the previous meeting (page 6, Minutes, 94th FEC Meeting) he would be prepared to move an amendment to the paper if such an amendment would be thought to afford a basis for an agreed compromise. He asked whether it would be in order to obtain a preliminary expression from representatives as to the amendment he had described. If after such expressions there appeared to be sufficient support, he would move the adoption of the amendment. GENERAL McCOY replied that he thought it preferable for the vote to proceed on the motion now before the Commission to approve FEC-236/10. After the paper had thus been disposed of, he thought that Dr. Koo's proposal, and others as well, could be submitted for consideration.

THE COMMISSION voted as follows on the motion to adopt FEC-236/10.

For - 4 (Australia, New Zealand, Philippine Republic, U.S.S.R.)

Against - 3 (Canada, United Kingdom, United States)

Abstained - 4 (China, France, India, Netherlands)

GENERAL McCOY declared that, there being no majority of all the representatives concurring, FEC-236/10 failed of adoption.

ITEM 3 - PROPOSAL OF THE U.S.S.R. DELEGATION TO REVIEW THE DECISION OF THE SUPREME COMMANDER FOR THE ALLIED POWERS TO SEND A MEMBER OF HIS STAFF TO THE PROVISIONAL FREQUENCY BOARD TO MEET AT GENEVA (FEC-290/1, FEC-290)

GENERAL McCOY presented information with regard to the Provisional Frequency Board. (Subsequently circulated as FEC-236/11).

MR. NAGGIAR referred to the final sentence of FEC-290, which read:

"In the opinion of the United States Government this decision of the Supreme Commander and similar decisions which circumstances in the future may cause him to make pending a policy decision of the Far Eastern Commission lie within the area of his discretion as sole executive for the Allied Powers in Japan."

He said that in connection with his remarks made under the previous item on the present agenda he wished to point out that this reference to the discretion of the Supreme Commander did not, as he understood it, mean that the Supreme Commander could decide whether occupied Japan could be represented at inter-governmental conferences. It was the French view, he repeated, that this decision on principle would have to be made by the governments concerned, and that the government serving as host to a conference would have to invite Japan through the United States Government; only on the direction of the United States Government could the Supreme Commander act, in sending an observer to

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an inter-governmental conference. For example, there had recently been a customs conference in Paris, and it had been thought that occupied Japan should be represented at this technical conference. It had therefore been decided that the French Government would forward an invitation to the United States Government regarding representation on behalf of occupied Japan.

Any host government, he said, should follow the governmental channel which he had described, rather than forwarding an invitation directly to the Supreme Commander.

MR. FORD said that he agreed that the final decision as to whether an observer on behalf of the Supreme Commander should attend any given inter-governmental conference rested with the conference itself, that is, with the governments participating in the conference.

MR. POWLES said that he could wholeheartedly associate himself with the views expressed by Mr. Naggiar. He thought that Mr. Naggiar had clearly expressed the principle which underlay the question of representation of Japan at inter-governmental conferences. He pointed out that the Terms of Reference provided that "The United States Government may issue interim directives to the Supreme Commander pending action by the Commission whenever urgent matters arise not covered by policies already formulated by the Commission . . ." The question of representation at conferences was clearly one which was pending decision before the Commission and so, in cases where such representation was desirable, the United States Government was free to act under the quoted provision of the Terms of Reference. However, MR. POWLES emphasized, he could not accede to the proposition laid down in the last paragraph of FEC-290 that the Supreme Commander himself had discretion to send representatives to conferences.

MR. POWLES then addressed himself to the Soviet statement in Enclosure "A" of FEC-290/1. He said that he considered it inadmissible to refer, as did this statement, to occurrences in the Steering Committee as an indication of the views of the Commission. Furthermore, MR. POWLES continued, he did not agree with the concluding sentence of Enclosure "A" to the effect that the adoption of the proposed resolution in Enclosure "B" would remedy the situation. The only remedy, he felt, would be for the Commission to pass a general policy decision. With regard to the particular point of sending SCAP observers to the Frequency Board at Geneva, it was the New Zealand position that it was proper for these representatives to attend and to be accompanied by the appropriate Japanese technical personnel. Because of certain technical reasons, New Zealand was especially interested that the proper radio frequencies be allocated to Japan. Therefore, MR. POWLES concluded, he favored the attendance by a SCAP representative but did not approve the procedure by which the representative had been sent to the conference.

MR. NAGGIAR suggested that any decision on this specific case of attendance at the Frequency Board be postponed and that the question of a policy on the principle of the representation of occupied Japan at inter-governmental conferences be referred to the appropriate working committee. It was his personal view that the attendance at the Frequency Board by a SCAP representative was proper.

DR. KOO supported the suggestion made by Mr. Naggiar. He thought that the Commission would not be in a position to review the decision of the Supreme Commander to send a representative to the Provisional Frequency Board until criteria for such review in the form of a policy decision had been formulated. It was therefore the practical course to defer consideration of this proposed review and to take up in the

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appropriate committee the formulation of a general policy.

DR. KOO also associated himself with the distinction Mr. Naggiar had drawn between the problem of the Commission and the problem of a government sponsoring an inter-governmental conference. There were, he thought, distinguishable steps in this process of inviting a SCAP representative to attend a conference: The first decision to be made would be whether such a representative should be invited. This decision would have to be taken by the sponsoring government in consultation with other conference participants. The next step would be the issuance of the invitation which, as Mr. Naggiar had pointed out, should be directed to the United States Government. Only then could the question arise of whether the invitation was to be accepted and whether, if it were, observers should be accompanied by technical personnel and whether such technical personnel should be of Japanese nationality. Only on these latter questions, which arose only after the receipt of the invitation, was the Commission concerned in formulating a general policy decision.

MR. TSARAPKIN said that the question before the Commission, which he did not regard as a technical question, might be separated into several sub-divisions of principle: First, the proper attitude of the Commission with regard to the decision of the Supreme Commander to send representation to the Provisional Frequency Board without prior authorization by the Commission. Second, the attitude to be adopted by the Commission in regard to the United States view set forth in FEC-290 regarding the Supreme Commander's discretion in the absence of a Commission policy decision. Third, the practical question of the need for SCAP representation at the Provisional Frequency Board.

The Soviet view was, MR. TSARAPKIN continued, that the decision to send a representative to the Frequency Board had not been within the jurisdiction of the Supreme Commander. Indeed, such a decision was only within the Commission's jurisdiction and therefore the action of the Supreme Commander had constituted an infringement of Commission jurisdiction. He therefore considered it necessary that the Commission express itself officially on this point. Such an expression, he suggested, should be along the lines expressed by the Soviet delegation in the penultimate paragraph of FEC-290/1. It was apparent from remarks by representatives at the present meeting that they agreed that the Supreme Commander had exceeded his authority in sending representation to the Provisional Frequency Board and that the decision should have been passed upon by the Far Eastern Commission.

Following a short recess for purposes of consultation, GENERAL McCoy said that it appeared to him advisable that the Soviet proposal on review not be sent to committee for consideration in connection with the preparation of a policy decision, at least until after there had been a further exchange of views. Therefore, he said, representatives should regard FEC-290/1 as before them for further consideration.

MR. TSARAPKIN suggested that the further exchange of views deal with two specific questions: First, the absence of authority on the part of the Supreme Commander to act as he had done in sending representation to the Provisional Frequency Board, and second, the United States expressed view shown in the last paragraph of FEC-290 to the effect that the authority to make such decisions did lie within the discretion of the Supreme Commander.

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appropriate committee the formulation of a general policy.

DR. KOO also associated himself with the distinction Mr. Naggiar had drawn between the problem of the Commission and the problem of a government sponsoring an inter-governmental conference. There were, he thought, distinguishable steps in this process of inviting a SCAP representative to attend a conference: The first decision to be made would be whether such a representative should be invited. This decision would have to be taken by the sponsoring government in consultation with other conference participants. The next step would be the issuance of the invitation which, as Mr. Naggiar had pointed out, should be directed to the United States Government. Only then could the question arise of whether the invitation was to be accepted and whether, if it were, observers should be accompanied by technical personnel and whether such technical personnel should be of Japanese nationality. Only on these latter questions, which arose only after the receipt of the invitation, was the Commission concerned in formulating a general policy decision.

MR. TSARAPKIN said that the question which was being discussed by the Commission was not simply a technical question as it had already been stressed by other representatives as well. This question might be separated into several theses of principle:

(1) Attitude of the Far Eastern Commission towards the decision made by the Supreme Commander to send his representative to the inter-governmental conference concerned with the distribution of frequencies, without authorization from the Far Eastern Commission.

(2) Opinion or attitude of the Far Eastern Commission in regard to the United States Government's view set forth in FEC-290 concerning such actions of the Supreme Commander.

(3) The practical question raised by the paper as to whether SCAP representatives should participate in the meetings of the Frequency Board.

The Soviet delegation considered, MR. TSARAPKIN continued, that the decision made by the Supreme Commander was inconsistent with his authority and was beyond his jurisdiction. The adoption of decisions on such questions was only within the jurisdiction of the Commission itself. Such actions on the part of the Supreme Commander constituted not only the exceeding of his powers but they should be considered as a direct ignoring by the Supreme Commander of the Far Eastern Commission's authority. Therefore the Soviet delegation considered it necessary that the Far Eastern Commission should determine its attitude on the substance of these two questions. In the Soviet delegation's proposal which was before representatives it was stated that the Far Eastern Commission could not recognize as correct the unilateral decision on this question and could not agree with the opinion of the United States Government that this decision of the Supreme Commander and similar decisions which might be made by him in the future in connection with the needs of the situation pending a policy decision of the Far Eastern Commission lay within the area of his jurisdiction as sole executive for the Allied Powers in Japan since the adoption by the Supreme Commander of such decisions without receiving authority to this effect from the Far Eastern Commission infringed the rights and prerogatives of the Far Eastern Commission.

It was apparent from remarks by representatives at the present meeting that they agreed that in this particular case the Supreme Commander had made a decision which had exceeded his authority and that the adoption of such decisions was a prerogative of the Far Eastern Commission. Therefore the Soviet delegation considered it necessary that the Commission should consider first of all this principal aspect of this question and adopt its decision.

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Following a short recess for purposes of consultation, GENERAL McCOY said that it appeared to him advisable that the Soviet proposal on review not be sent to committee for consideration in connection with the preparation of a policy decision, at least until after there had been a further exchange of views. Therefore, he said, representatives should regard FEC-290/1 as before them for further consideration.

MR. TSARAPKIN said that before the exchange of opinions concerning the question proposed by the Soviet delegation would take place, he wanted to say a few words which would clarify to the other members what was desirable particularly to discuss at this meeting of the Commission. It was desirable that representatives express their views:

(1) Concerning the absence of authority on the part of the Supreme Commander to make such decisions as he had made.

(2) Concerning the opinion expressed by the United States Government in FEC-290.

These were the questions of principle to which, the Soviet delegation considered, the Commission should not fail to pay its attention.

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MR. POWLES said that with all respect to the Soviet representative he could not agree that the questions which he had enumerated were the ones properly before the Commission. The real issue now before the Commission, he thought, was the Soviet proposal to adopt the decision shown in Enclosure "B" of FEC-290/1. Representatives should address themselves to that specific proposal rather than to further arguments on general principles.

GENERAL McCOY said that he agreed with Mr. Powles, but wished to add one further remark on the general principles which had been raised, by pointing out that the Supreme Commander was fully aware of the prerogatives of the Commission and had been scrupulous in his efforts not to infringe on these prerogatives. However, in appraising the Supreme Commander's decision to send a representative to the Provisional Frequency Board, it should be borne in mind that he had been awaiting a Commission policy for at least a year, and that during 8 months of that time, the Commission had actually been considering a policy, but had still not agreed on a formulation. Finally, faced with this important technical conference at which representation was especially desirable he had taken the action now under discussion. GENERAL McCOY said that he hoped that the Commission could agree on its policy within a short time and at any rate he felt that until such a policy was agreed on, there was no basis on which to decide whether there had been any infringement of the rights of the Commission.

MR. FORD said that if Enclosure "B" of FEC-290/1 were voted on, he would have to vote against it. The implication of the proposal was that the Supreme Commander should withdraw his representation at the Provisional Frequency Board and such a course he thought could not seriously be pursued by the Commission.

MR. BULLOCK said that two questions seemed to be involved: First, whether the Supreme Commander should have sent a representative to the Provisional Frequency Board, and second, whether attendance by his representative at the particular conference was desirable. In the context of these two questions he considered the wording of the proposal in Enclosure "B" of FEC-290/1 to be obscure. He was dubious as to the precise effect of the statement that "The Far Eastern Commission decides as a matter of policy that the sending of the SCAP's representative . . . is considered inadvisable at the present time". He would find it difficult, he said, to be certain of what he was voting on if this paper came to a vote.

DR. KOO reemphasized his view that there should be no vote on the present proposal until the Commission had adopted a policy decision. Once a policy decision were adopted, it would be a relatively simple question to determine whether this action by the Supreme Commander had been in conformity with the policy. Until after the adoption of a policy decision, the Chinese delegation would have to abstain from voting on the review proposal.

MR. NAGGIAR said that the proposal in Enclosure "B" of FEC-290/1 did not cover the question of principle which he had already discussed. The question of the propriety of the Supreme Commander's action in sending an observer and a Japanese technical expert to the Provisional Frequency Board did not constitute the main problem before the Commission, which he reiterated was whether occupied Japan was to be represented at inter-governmental conferences. The question of principle could be settled, as he had already outlined, either by a Commission policy decision or by consultation among governments. He would have to abstain from any vote on the present proposal.

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MR. REUCHLIN said that if Enclosure "B" of FEC-290/1 were voted on, he would have to vote against it, since, with regard to the first of the two points raised, the Netherlands delegation considered that the sending of a SCAP representative and of a Japanese representative to the Provisional Frequency Board was advisable. On the point of the second paragraph in Enclosure "B" he did not understand what "policy decision" was referred to.

MR. JOVELLANOS said that he was awaiting instructions on the present proposal and that if it were put to the vote at the present meeting, he would have to abstain.

MR. TSARAPKIN said that it seemed apparent that representatives were refraining from expressing an opinion on the questions he had raised. He could only consider the Commission's action ostrich-like if it refrained from an appraisal of the Supreme Commander's action in sending his representative to the Provisional Frequency Board. He again emphasized the Soviet view as shown in penultimate paragraph of Enclosure "A" of FEC-290/1 that the Supreme Commander's action and that the view of the United States Government regarding that action were in contradiction of the Terms of Reference of the Commission and that there should accordingly be a statement of policy on the part of the Commission which would emphasize this contradiction. He therefore considered that the statement of the New Zealand representative to the effect that these questions were not on the agenda was not in accordance with the facts. In conclusion, he said that if representatives were not ready to vote at the present meeting, he would not object to postponing further consideration until the next meeting of the Commission.

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

ITEM 4 - CHAIRMAN OF COMMITTEE NO. 3: CONSTITUTIONAL AND LEGAL REFORM
(FEC-004/41)

THE COMMISSION unanimously approved the election of Mr. R. K. Nehru as Chairman of Committee No. 3: Constitutional and Legal Reform.

At the request of DR. KOO, the COMMISSION next considered Item 7 on its agenda.

ITEM 7a RESTITUTION OF LOOTED PROPERTY (FEC-011/40, /42, FEC-011/12, /21, /32 through /39)

b RESTITUTION OF LOOTED PROPERTY: NETHERLANDS SUBSTITUTE
(FEC-011/43)

DR. KOO said that action on this subject had been pending for a considerable length of time. He understood that the general subject of shipping in FEC-011/40 had been referred to a working committee and that on the rest of the paper, which was embodied in FEC-011/43, there was general agreement. He therefore thought that early action might be taken on this latter paper, with the understanding that the question of shipping would be the subject of consideration as a separate policy decision.

MR. REUCHLIN said that in accordance with the view which he had expressed at length, particularly on 8 January (Page 2, Minutes, 85th FEC Meeting) at which time he had introduced the amendment embodied in FEC-011/43, he could heartily endorse the statement just made by Dr. Koo.

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MR. REUHLIN said that if Enclosure "B" of FEC-290/1 were voted on, he would have to vote against it, since, with regard to the first of the two points raised, the Netherlands delegation considered that the sending of a SCAP representative and of a Japanese representative to the Provisional Frequency Board was advisable. On the point of the second paragraph in Enclosure "B" he did not understand what "policy decision" was referred to.

MR. JOVEJANOS said that he was awaiting instructions on the present proposal and that if it were put to the vote at the present meeting, he would have to abstain.

MR. TSARAPKIN said he regretted that the representatives, members of the Far Eastern Commission were digressing from the subject and refraining from expressing their opinions on the questions he had raised above. It seemed to him that it would some resemble the attitude of an ostrich if the Commission did not give its appraisal of the Supreme Commander's action. He further referred to the opinions that had been expressed on the concluding part of the Soviet statement. In this connection he said, the same statement contained an appraisal by the Soviet delegation of the Supreme Commander's action. The Soviet statement read that "the Soviet delegation on the Far Eastern Commission cannot recognize as correct the unilateral decision on this question by the Supreme Commander for the Allied Powers nor can it agree with the opinion of the United States Government that this decision of the Supreme Commander and similar decisions which might be made by him in the future lie within the area of his discretion, since such an opinion of the United States Government and the action on the part of the Supreme Commander are in contradiction with the Terms of Reference of the Far Eastern Commission." He therefore considered that the statement of the New Zealand representative to the effect that this question was not on the agenda was not in accordance with the facts. The Soviet delegation still would consider it necessary that the Commission dwell on just this aspect of the matter. If delegations were not ready to express their opinion in this aspect the Soviet delegation would not object, he said, if further consideration of this question, in view of the lateness of the hour, were postponed until the next meeting of the Commission.

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

ITEM 4 - CHAIRMAN OF COMMITTEE NO. 3: CONSTITUTIONAL AND LEGAL REFORM
(FEC-004/41)

THE COMMISSION unanimously approved the election of Mr. R. K. Nehru as Chairman of Committee No. 3: Constitutional and Legal Reform.

At the request of DR. KOO, the COMMISSION next considered Item 7 on its agenda.

ITEM 7a - RESTITUTION OF LOOTED PROPERTY (FEC-011/40, /42, FEC-011/12, /21, /32 through /39)

b - RESTITUTION OF LOOTED PROPERTY: NETHERLANDS SUBSTITUTE (FEC-011/43)

DR. KOO said that action on this subject had been pending for a considerable length of time. He understood that the general subject of shipping in FEC-011/40 had been referred to a working committee and that on the rest of the paper, which was embodied in FEC-011/43, there was general agreement. He therefore thought that early action might be taken on this latter paper, with the understanding that the question of shipping would be the subject of consideration as a separate policy decision.

MR. REUHLIN said that in accordance with the view which he had expressed

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GENERAL McCOY said that he understood the postponement had been mainly for the purpose of securing Soviet agreement on the subject. He asked whether the Soviet representative had any comment at the moment.

MR. TSARAPKIN said that the Soviet view continued to be that the Commission's policy decision on Restitution of Looted Property should include a provision on shipping and that such a provision should specifically require the Japanese Government to bear the expense of salvaging looted ships found in waters outside Japan.

DR. KOO said that if the Commission desired to vote at the present meeting, he was prepared to move the adoption of FEC-011/43. He would not object, however, to postponement until the next meeting.

MR. REUHLIN recalled that he had already (Page 2, Minutes, 85th FEC Meeting) moved the adoption of FEC-011/43, and said that it might be more appropriate for him now formally to move its adoption again at this meeting. DR. KOO said that in that case he would second the Netherlands motion.

MR. TSARAPKIN said that it was the Soviet view that if any vote were taken on this subject, it should be on the former paper, FEC-011/40. In his opinion, FEC-011/43 represented only an abbreviated form of FEC-011/40 since its text was identical except for the excision of paragraphs 10 and 11.

MR. REUHLIN pointed out that FEC-011/43 had been introduced as an amendment to FEC-011/40, and as such took precedence in voting over the original paper. GENERAL McCOY said that he agreed with this view regarding procedure.

MR. REUHLIN said that whether or not FEC-011/43 were regarded as an amendment, it was at any rate the paper which had been moved and seconded. There had never been a motion for the adoption of FEC-011/40.

MR. NAJJAR said that he was not himself prepared to vote on the question. There seemed to be some doubt on which paper a vote should properly be taken, and the hour was too late to begin what might be a long procedural discussion. He therefore moved the adjournment of the present meeting.

Without objection, further consideration of this subject was postponed and the meeting adjourned at 12:50 P.M.

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at length, particularly on 8 January (Page 2, Minutes, 85th FEC Meeting) at which time he had introduced the amendment embodied in FEC-011/43, he could heartily endorse the statement just made by Dr. Koo.

GENERAL McCOY said that he understood the postponement had been mainly for the purpose of securing Soviet agreement on the subject. He asked whether the Soviet representative had any comment at the moment.

MR. TSARAPKIN stated that the Soviet delegation continued to hold the view, as previously, that this paper should be considered as a whole, and that it would oppose a consideration of the document in parts.

DR. KOO said that if the Commission desired to vote at the present meeting, he was prepared to move the adoption of FEC-011/43. He would not object, however, to postponement until the next meeting.

MR. REUHLIN recalled that he had already (Page 2, Minutes, 85th FEC Meeting) moved the adoption of FEC-011/43, and said that it might be more appropriate for him now formally to move its adoption again at this meeting. DR. KOO said that in that case he would second the Netherlands motion.

MR. TSARAPKIN said that he would like to express himself on the question of procedure. He said that, as was known, the Netherlands representative's proposal had been submitted after the proposal contained in the paper under Item 7a, and that this Netherlands proposal actually could not be considered either as an amendment or as an addition to the paper under Item 7a. The document under Item 7b was in effect, he said, the same document as under 7a, but with the excision of paragraphs 10 and 11. Under such circumstances, he said, the Netherlands proposal could not be even recognized as a proposal, as it was simply an exclusion of 2 paragraphs from the original proposal. The Soviet delegation considered, MR. TSARAPKIN said, that if a document was to be voted by the Commission then the document under Item 7a should be the first.

MR. REUHLIN pointed out that FEC-011/43 had been introduced as an amendment to FEC-011/40, and as such took precedence in voting over the original paper. GENERAL McCOY said that he agreed with this view regarding procedure.

MR. REUHLIN said that whether or not FEC-011/43 were regarded as an amendment, it was at any rate the paper which had been moved and seconded. There had never been a motion for the adoption of FEC-011/40.

MR. NACCIAR said that he was not himself prepared to vote on the question. There seemed to be some doubt on which paper a vote should properly be taken, and the hour was too late to begin what might be a long procedural discussion. He therefore moved the adjournment of the present meeting.

Without objection, further consideration of this subject was postponed and the meeting adjourned at 12:50 P.M.

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COPY NO. _____

FEC-CONFIDENTIALMINUTES-96th FEC MeetingMarch 4, 1948FAR EASTERN COMMISSION

Minutes of the Ninety-Sixth Meeting of the Far Eastern Commission,
Held in the Main Conference Room, 2516 Massachusetts Avenue, N.W.
Washington, D.C.
4 March, 1948, 10:30 A.M.

REPRESENTATIVES PRESENT

Maj. Gen. Frank R. McCoy (Chairman) (United States)
Mr. H. W. Bullock (Australia)
Mr. R. E. Collins (Canada)
His Excellency Dr. Wellington Koo (China)
His Excellency Mr. Paul E. Naggiar (France)
Mr. S. N. Banerji (India)
Mr. O. Reuchlin (Netherlands)
Mr. G. R. Powles (New Zealand)
Mr. J. U. Jovellanos (Republic of the Philippines)
Mr. S. K. Tsarapkin (U. S. S. R.)
Mr. J. F. Ford (United Kingdom)

SECRETARY GENERAL

Mr. Nelson T. Johnson

NOTE: 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.

Minutes, 96th FEC Meeting

COPY NO. 29FEC-CONFIDENTIALRECORD OF ADOPTION OF MINUTES96TH FEC MEETING15 March 1948FAR EASTERN COMMISSIONRECORD OF APPROVALOFMINUTES OF THE NINETY-SIXTH MEETING OF THE FAR EASTERN COMMISSION

Note by the Secretary General

1. The Commission, at its ninety-seventh meeting, 11 March 1948, approved the provisional minutes of its ninety-sixth meeting with the following corrections:

Page 4 - ninth line of penultimate paragraph - insert the words "the Soviet amendment to paragraph 10 of" between the phrase "adoption of" and "FEC-011/43".

Page 10 - last line of second paragraph - insert the words "the adoption of" between the phrases "had so far prevented" and "a policy".

Page 10, penultimate paragraph to read:

"In view of the above discussion, agreement was reached as to the release to the press of any statement regarding the foregoing proceedings."

2. Representatives are requested to incorporate the above corrections in their file copies of the provisional minutes of the ninety-sixth meeting of the Commission and to attach this formal record of approval to those copies as corrected.

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

SUMMARY-FECFEC-CONFIDENTIALSUMMARY-96th FEC Mtg.4 March 1948FAR EASTERN COMMISSIONSUMMARY OF MINUTES OF 96TH MEETINGITEM 1 - APPROVAL OF THE MINUTES OF THE NINETY-FIFTH MEETING

Amended and approved.

ITEM 2 - PROPOSAL OF THE USSR DELEGATION TO REVIEW THE DECISION OF THE SUPREME COMMANDER FOR THE ALLIED POWERS TO SEND A MEMBER OF HIS STAFF TO THE PROVISIONAL FREQUENCY BOARD TO MEET AT GENEVA
(FEC-290, FEC-290/1)

Postponed.

ITEM 3 - a RESTITUTION OF LOOTED PROPERTY (FEC-011/40; /42, /12, /21 /32 through /39)b RESTITUTION OF LOOTED PROPERTY: NETHERLANDS SUBSTITUTE
(FEC-011/43)

FEC-011/43 and FEC-011/40 formally voted on and lost by reason of the non-concurrence of the Soviet Representative.

ITEM 4 - SOVIET PROPOSAL CONCERNING PLANNED CREDITS FOR THE RECONSTRUCTION OF JAPANESE INDUSTRY (FEC-298)

Postponed, to afford opportunity for study of a statement offered by the United States Representative (subsequently circulated as FEC-298/1.

ITEM 5 - USSR PROPOSAL ON TAXATION OF ALIENS BY THE JAPANESE (FEC-301; FEC-055/4, /5, /6)

Referred to Committee No. 6: Aliens in Japan.

ITEM 6 - a STATEMENT BY THE UNITED STATES REPRESENTATIVE OF THE FAR EASTERN COMMISSION ON REPARATIONS SHARES (FEC-278)b REPORT OF COMMITTEE NO. 1 TO THE FAR EASTERN COMMISSION REGARDING DIVISION OF REPARATIONS SHARES (FEC-219/25, 219 series)

Postponed.

ITEM 7 - ADVANCE TRANSFERS OF JAPANESE REPARATIONS (FEC-201/1)

Postponed.

ITEM 8 - OTHER BUSINESS

See Item 9.

ITEM 9 - PRESS RELEASE

None. Discussion of release on defeat of Item 3 above.

Summary, Minutes, 96thFEC Meeting

FEC-CONFIDENTIALITEM 1 - APPROVAL OF THE MINUTES OF THE NINETEEN-FIFTH MEETING

MR. NAGGIAR requested the following changes in the minutes of the ninety-fifth meeting:

Page 2 - delete the second paragraph and substitute the following:

"On this main question of principle, MR. NAGGIAR said, it was the view of the French Government that, in certain cases it would be in the interest of the Allied Powers and in the interest of the good administration in Japan, that occupied Japan be admitted to inter-governmental conferences. The question of principle involved would have to be dealt with at governmental level, either through diplomatic channels or through the Commission. In the absence of a Commission's policy decision a sponsoring or host government would have to decide, after consultation with other governments participating in the conference, whether occupied Japan should be invited to attend. Such a course, he said, would be followed by the French Government in cases where France was acting as host to a conference. Once a policy decision were adopted by the Commission, it would be controlling, but until such a decision were adopted, his Government shall take in consideration the functions of the United States Government as defined by the Terms of Reference of the Commission. The proper procedure in issuing an invitation to occupied Japan for attendance at an inter-governmental conference would then be for the host government to transmit the invitation either through diplomatic channels or through its representative on the Commission. Only by following such a procedure, MR. NAGGIAR emphasized, would proper regard be given the functions under the Terms of Reference of the United States Government and the Commission."

Page 2, third paragraph - change the phrase "because of the French view that the paper failed" to read "because in the French view the paper failed".

Page 3, delete that part of the final paragraph beginning in antepenultimate line with the words "through the" and continuing on page 4, concluding with the words "occupied Japan" and substitute the following:

". . . in conformity with a policy decision of the Commission, if there is any decision on this matter, or in the absence of a policy decision, after consultation of the Governments concerned, due account being taken of the functions of the United States Government as defined by the Terms of Reference of the Commission. For example, a conference on customs nomenclatures was scheduled to meet recently in Paris, and it had been thought that occupied Japan should be represented. As there is yet no policy decision of the Commission on the question of principle, the French Government was then considering sending its invitation, either through diplomatic channels or through its representative at the Commission."

Page 4, delete the first full paragraph and substitute the following:

"Any host government, he said, should follow the same channels rather than forwarding an invitation directly to the Supreme Commander."

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MR. REUCHLIN requested the following changes:

Page 7, first paragraph, amend last sentence to read: "On the point of the second paragraph in Enclosure "B", it was not quite clear to him what 'policy decision' it was intended to refer."

Page 7, first paragraph, add the following sentence: "If reference was made to the policy as expressed in the first paragraph, he wished to point out that the meeting at Geneva was already well under way, and that therefore the 'appropriate directive' desired in the Soviet proposal would be futile."

MR. BULLOCK requested the following changes in the fourth paragraph on page 6:

Second and third lines - delete the words "should have sent a representative to the Provisional Frequency Board" and substitute therefor "had the authority to act as he did".

Fourth line - delete the word "desirable" and substitute the word "necessary".

Seventh line - delete the word "effect" and substitute the word "meaning".

DR. KOO requested the following changes:

Page 5, first full paragraph, second line, amend the phrases "of the Commission" and "of a government" to read "confronting the Commission" and "confronting a government".

Page 7, add the following sentence to the penultimate paragraph: "Such early action was the more desirable because the delay had already caused deterioration of the property in question and would diminish its value to the recipient countries."

The COMMISSION unanimously approved the minutes of its ninety-fifth meeting with the above changes.

ITEM 2 - PROPOSAL OF THE USSR DELEGATION TO REVIEW THE DECISION OF THE SUPREME COMMANDER FOR THE ALLIED POWERS TO SEND A MEMBER OF HIS STAFF TO THE PROVISIONAL FREQUENCY BOARD TO MEET AT GENEVA
(FEC-290, FEC-290/1)

MR. TSARAPKIN said that because of the absence from the city of Ambassador Panyushkin he would request postponement of further consideration of this subject to the next meeting of the Commission.

Without objection, further consideration of this subject was postponed at the request of the Soviet representative.

ITEM 3 - a RESTITUTION OF LOOTED PROPERTY (FEC-011/40, /42, FEC-011/12, FEC-011/21, /32 through /39)

b RESTITUTION OF LOOTED PROPERTY: NETHERLANDS SUBSTITUTE
(FEC-011/43)

GENERAL McCOY recalled that at the last meeting of the Commission (page 8, Minutes, 95th FEC Meeting) the adoption of FEC-011/43, an

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amendment to FEC-011/40 in the nature of a substitute, had been moved and seconded. If there were no further discussion, he would put this amendment to the vote.

The COMMISSION voted 10 for and 1 (U.S.S.R.) against the adoption of FEC-011/43 and GENERAL McCOY declared the amendment lost because of the non-concurrence of the Soviet representative.

GENERAL McCOY said that with the defeat of FEC-011/43, the original policy proposal, FEC-011/40, was now before the Commission for consideration. He observed that as yet there had been no formal motion to adopt this proposed policy.

MR. TSARAPKIN moved that FEC-011/40 be amended by the addition to paragraph 10 of the following sentence:

"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.",

as was set forth in paragraph 3 of the cover page of FEC-011/40.

MR. NAGGIAR asked what the present practice was with regard to the payments of costs with regard to salvaging and repairing looted ships found in Japanese waters. GENERAL McCOY replied that looted ships found in Japanese waters were salvaged and repaired at the expense of the Japanese Government. He pointed out that it was quite practicable to follow this principle that the cost of salvaging ships found in Japanese waters should be borne by the Japanese, since in such cases payment involved only the use of Japanese yen.

DR. KOO said that, as had been made clear on previous occasions, the Chinese delegation was extremely anxious that a restitution policy be adopted. The Chinese position included a strong preference for treating the subject of ships in such a policy, and his delegation had favored the principle that the cost of salvaging and repairing ships should be borne by the Japanese. In the course of discussion, this aspect of the question had become the cause of delay in adopting the paper, and his delegation, in order to expedite the adoption of the other provisions in the proposal, had agreed to the removal from the paper of the question of ships for consideration with a view to formulating a separate policy decision. He was of course disappointed that this method of expediting adoption of a restitution paper had not succeeded and that the paper from which the paragraph on ships had been removed had just failed of adoption. This meant of course that the Chinese delegation, with its great interest in the subject of looted ships, would have to revert to its original position, and therefore, in the present situation resulting from the failure of FEC-011/43 he would, if a second to the Soviet motion were considered necessary, second the Soviet amendment to paragraph 10.

MR. NAGGIAR said that the French delegation had supported paragraph 10 in a form similar to that now proposed by the Soviet representative. He would therefore support the present Soviet amendment, and, if the amendment should fail of adoption, would reserve the right of the French delegation subsequently to submit a new proposal on this subject.

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The COMMISSION voted as follows on the Soviet amendment to paragraph 10:

For - 4 (China, France, New Zealand, U.S.S.R.)
Against - 4 (India, Netherlands, United Kingdom, United States)
Abstained- 3 (Australia, Canada, Philippine Republic)

GENERAL MCGOY declared the amendment lost for lack of a majority of all the representatives.

MR. NAGGIAR said that the question of the restitution of looted property was an urgent matter and one of great interest to all member Governments. He would therefore propose another amendment to paragraph 10 of FEC-011/40 which would provide ~~that such objects as were enumerated therein,~~ when found in territories outside Japan, would be dealt with in a separate paper. Such an amendment, he said, might afford a basis for agreement, since it would specifically reserve the substance of paragraph 10 for further consideration, rather than merely removing it. He wondered whether other representatives would be prepared to support an amendment along these lines.

DR. KOO reiterated that the Chinese delegation was deeply interested in the adoption of a policy decision on restitution, preferably one which would make provision for ships found outside Japanese waters. If, however, agreement could not be reached on a policy decision which included shipping, he would be prepared to support one with as many of the provisions shown in FEC-011/40 as could be agreed upon. He would, therefore, support the French suggestion if it were formulated as an amendment.

MR. REUHLIN said that at a previous stage of discussion, an ad hoc subcommittee had, by a vote of ten to zero, with the Soviet member abstaining, favored the idea just put forward by the French representative. He was still prepared to support the suggestion since he felt that, while there was general agreement on the principle that the costs of salvaging and repairing looted ships should be borne by the Japanese, the manner of putting the principle into effect required further study and required additional information which had not been available to the subcommittee and which indeed was not yet available to the Commission.

MR. BULLOCK expressed support for the suggestion made by Mr. Naggiar. He felt sure that all delegations were convinced that there was a moral obligation upon the Japanese to bear the cost of salvaging and repairing looted ships wherever found. However, simply to include such a provision in the proposed policy would make it appear that the moral obligation was being discharged, whereas, in fact, the financial burden would be upon the occupation authority, which would have to supply the necessary foreign exchange. It was for this reason that he had abstained from voting on the adoption of FEC-011/43. However, it was a subject which should receive further study, since there did exist possibilities that arrangements could be made for payment in foreign exchange for preliminary work, leaving most of the expense to be paid in Japanese yen. For example, a ship in the waters of a third country might be raised and towed to Japan where the bulk of the work on it would be completed and only the raising operation would involve the use of foreign exchange.

MR. BULLOCK emphasized that since all provisions in FEC-011/40 were of an urgent nature, it was particularly desirable to adopt those on which agreement existed and leave the question of ships for further consideration.

*the Soviet
amendment
to paragraph
10 of*

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MR. FORD said that he too was prepared to support a proposal along the lines of the French suggestion.

MR. NAGGIAR moved and DR. KOO seconded the motion that FEC-011/40 be amended by substituting for paragraph 10 the following paragraph:

"The subject of disposition of objects looted or acquired by fraud, force or duress such as:

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

and found within territories other than Japan will be dealt with in a separate paper."

MR. TSARAPKIN said that the Soviet delegation considered FEC-011/40 a unique paper in that all of its fourteen paragraphs were organically tied together, and all of the proposed objectives of policy required equal consideration by the Commission. Therefore, the proposal that the substance of paragraph 10 be reserved for separate consideration was not acceptable to his delegation. He pointed out that paragraph 3 of the proposal provided that the cost of salvaging and repairing Allied ships of all types and sizes found in Japanese waters should be borne by the Japanese Government. He said that he could see no foundations of either a political or logical nature for the view that the paper should define the rights of the Allied countries only in respect to ships found in Japanese waters and forget the question that looted Allied ships damaged or sunk by the Japanese in the waters of third countries should also be repaired and refitted at the cost of the Japanese Government. Therefore, he could not understand why at the same time some Members wished to postpone and separate into a different paper the decision of the Commission concerning looted Allied ships damaged or sunk by the Japanese in the waters of third countries. Furthermore, MR. TSARAPKIN continued, the Soviet delegation saw little possibility of reaching agreement on this matter if it were removed for separate consideration, in view of the attitude of some of the delegations, which he thought could only be described as favorable to the Japanese. He repeated that the organic unity of the paper should not be disrupted by a removal of the one paragraph for separate consideration. The Soviet delegation would therefore oppose the proposed removal of paragraph 10.

The COMMISSION voted 10 for and 1 (U.S.S.R.) against the French amendment to paragraph 10 of FEC-011/40, and GENERAL MCCOY declared the amendment lost because of the non-concurrence of the Soviet Representative.

MR. BULLOCK said that while all agreed on the moral obligation of the Japanese to bear the cost of salvaging looted ships, objections to a specific proposal to that effect had been based on the difficulty of finding a way whereby these costs would in fact be borne by the Japanese rather than by the occupation authority. There had been a well-founded

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reluctance to incorporate a provision which only paid lip service to the principle it purported to carry out. He wondered whether agreement might be reached on an amendment which would provide that the costs in question should be borne by the Japanese if a method could be found whereby the actual incidence of such costs would not fall on the occupying authority. This would leave it up to any nation requesting repair of its looted ships to show that the costs could indeed be met by Japanese holdings of the required foreign exchange.

DR. KOO said he regarded Mr. Bullock's suggestion as a well-conceived effort at compromise. He thought that if such an amendment were formulated, it should provide, in accordance with the Soviet view, a statement that the costs in question should be borne by the Japanese Government. It might also provide that the question would be studied further to ensure that the incidence of costs would in fact be on the Japanese, and that, after the conclusion of such study, a separate policy would be formulated. He felt sure that all delegations could support the principle that the costs should be borne by the Japanese and that the objections to the Soviet amendment had not arisen in connection with its principle but in connection with the impracticability of its being effected.

GENERAL McCLOY said that the study involved under Mr. Bullock's suggestion would require consideration of a technical nature and he wondered whether representatives desired the matter referred to an ad hoc subcommittee or to Committee No. 1.

MR. BULLOCK said that he did not think the question of agreeing on the inclusion of a statement of principle to the effect that the costs should be borne by the Japanese Government required any technical discussion. The study which would determine the manner in which such costs might be borne would indeed be a matter of technical study and would be a subject for reference to a committee.

MR. FORD said that although he had up to this point favored every effort at compromise in an effort to reach agreement on a policy paper on restitution, he was not prepared to support the formula suggested by Mr. Bullock. Such a formula, he felt, would, when the question of its interpretation arose at some future date, lead to greater difficulties than those it was intended to obviate. The costs in question would involve foreign exchange, and he felt that the Commission must recognize that the Japanese simply did not have this foreign exchange. He was therefore opposed to any formula which would only seemingly cover the real difficulty.

MR. BULLOCK said that with changing circumstances resulting from the initiation of foreign trade by Japan there might well be accumulations by Japan of increased foreign exchange which would enable her to finance at least such partial operations as he had referred to earlier.

The question of Japan's holdings of any given foreign exchange in the future would depend upon her balance of trade with the country involved at that time. The question was therefore not as simple as declaring that, in the face of Japan's present lack of foreign exchange she could not in the future bear certain salvaging and repair costs.

MR. REUHLIN said that all delegations were cognizant of the technical difficulties involved and it was indeed for that reason that a separate paper dealing with these difficulties had been proposed. The present discussion he felt was becoming involved in precisely those technical difficulties and he thought that the Commission should address itself rather to the appropriate disposition of FEC-011/40.

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MR. FORD moved and MR. REUCHLIN seconded the motion that the Commission approve FEC-011/40.

THE COMMISSION voted on the motion to approve FEC-011/40 as follows:

Australia: for.

Canada: for.

China: for. DR. KOO said that in voting for FEC-011/40 he would reserve the Chinese position on the subject of ships in paragraph 10.

France: for. MR. NAGGIAR desired that the record show that the French delegation, in voting for FEC-011/40, understood the principles referred to at the end of paragraph 10 to be those set forth in paragraph 3.

India: for.

Netherlands: for.

New Zealand: for. MR. POWLES associated himself with the statement made by Mr. Naggiar.

Philippine Republic: for.

U.S.S.R.: against. MR. TSARAPKIN said that since the Soviet proposal to amend paragraph 10 had not been approved by some members, the Soviet delegation could not support the paper.

United Kingdom: for.

United States: for.

GENERAL McCOY declared FEC-011/40 lost because of the non-concurrence of the Soviet representative.

ITEM 4 - SOVIET PROPOSAL CONCERNING PLANNED CREDITS FOR THE RECONSTRUCTION OF JAPANESE INDUSTRY (FEC-298)

GENERAL McCOY presented the following formal statement (subsequently circulated as FEC-298/1):

"In FEC-298 the representative of the U.S.S.R. quotes a report of the Central News in regard to the United States program for assistance to Japan. The U.S.S.R. delegation then asks the United States delegation to present to the Commission what is referred to as 'exhaustive materials' on three questions.

"The United States delegation understands that in referring to investment of capital in Japanese industry the U.S.S.R. is referring to investment in capital equipment and not the provision of raw materials.

"The U.S.S.R. delegation asks:

1. 'Whether there were instances during the period of 1945-1947 where the USA invested capital in the Japanese industry for the purpose of reconstruction of the Japanese industry or for other purposes and whether the investment of capital was made into other branches of Japanese economy'.

Answer: Understanding capital equipment to mean investment in plant or equipment, the United States has made no such investment in Japanese industry during the period 1945-1947.

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2. 'If such investment of capital into Japanese economy took place, then, into what branches, in what volume and for what purposes it was made'.

Answer: Since no investment has been made, no answer to this question is necessary.

3. 'Whether the information contained in C2-026/50 in regard to planned United States investments of capital for industrial reconstruction in Japan is in accordance with real facts'.

Answer: The Central News report quoted by the Soviet member is presumably based upon a United States newspaper story. However I would refer the Soviet member to my statement of January 21 before this Commission when I said:

'While the American people will not continue indefinitely to subsidize the economy of Japan, the United States Government will shortly begin discussions in the Congress of a proposal to provide funds for the fiscal year 1949, in addition to funds requested for subsistence items, for the procurement of such imports, industrial raw materials and spare parts to assist Japan to expand the output of its peaceful industries toward a status of self-support.'

Since the President has not yet submitted to Congress a program to aid Japanese to arrive at a status of self-support, no exact figures can be given at this time."

MR. TSARAPKIN said that it would be desirable that the statement made by General McCoy be circulated and added that after study of the above statement by the Chairman he might wish to comment further on this subject.

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

ITEM 5 - USSR PROPOSAL ON TAXATION OF ALIENS BY THE JAPANESE (FEC-301; FEC-055/4, /5, /6)

Without objections, FEC-301 was referred to Committee No. 6: Aliens in Japan, for consideration.

ITEM 6 - a STATEMENT BY THE UNITED STATES REPRESENTATIVE OF THE FAR EASTERN COMMISSION ON REPARATIONS SHARES (FEC-278)

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

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

ITEM 7 - ADVANCE TRANSFERS OF JAPANESE REPARATIONS (FEC-201/1)

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

ITEM 8 - OTHER BUSINESS

See Item 9, Press Release, below.

ITEM 9 - PRESS RELEASE

MR. REUHLIN said that in view of the confidential nature of the Commission's meetings he would suggest, in order that people might be properly informed as to which country had on three occasions vetoed the adoption of

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a reasonable policy on restitution, that the press be notified that every effort at reasonable compromise in the matter of the adoption of a restitution policy had been barred by the action of the Soviet representative, who had wanted the Commission to rule on the salvaging and repairing of Soviet ships sunk in the waters of third countries. The release he thought should also make known that the Commission had been prepared to consider this question further but that the Soviet delegation had been opposed to such action. He would be agreeable to any wording along these lines which the Commission could agree on, but he did feel that a press release along these suggested lines was necessary in order to explain why, at this late date, restitution of looted property did not take place.

MR. NAGGIAR said that in view of the extended discussion on this subject he could see no advantage in suddenly subjecting the most recent developments to a strong light of publicity, without furnishing the full background of earlier developments. Furthermore, he was against any political exploitation of discussions within the Commission.

MR. POWLES said that the New Zealand Government had always favored the publication of Commission policy decisions. Likewise, it favored the publication of any formal action of the Commission, even though a policy decision were not involved, since it was just as important that the public know of the failures of the Commission as that it know of its achievements. Therefore, although he was not prepared to support the particular phraseology suggested by Mr. Reuchlin, he did feel that the Commission had a duty to inform the public of its failure to adopt a policy decision on restitution, and the New Zealand delegation would have no objections to giving full particulars of voting in connection with the public announcement. In general, he emphasized, there had been too much secrecy surrounding the work of the Commission, and this very secrecy had led to unfortunate leaks of information from time to time.

Indeed, he felt sure that the developments of the present meeting with regard to restitution would find their way into the press. For all these reasons, he would support a general move toward further publicity for Commission actions.

GENERAL McCOY said that he felt it would be improper to release any statement to the press which would hinder further cooperation within the Commission. He did not feel that a statement along the lines suggested would in any way help the Commission in its future work. He invited attention to the existent policy of the Commission regarding press statements (FEC-005 and FEC-005/3) which provided:

"The Secretary General is authorized to prepare formal statements on behalf of the Commission for issuance to the press. The last item on each agenda of Commission meetings will be 'Press Release', at which time the Commission may issue particular instructions to the Secretary General with respect to the release for that meeting. The releases will be given the press through the United States Department of State Press Room, which has contact with all interested agencies. This authorization is for official releases only and does not limit in any way the freedom of members to make such statements to the press individually as they in their judgment may care to.

"After each Commission meeting the Chairman is authorized to hold a press conference to supplement the press release for such meeting."

Under this policy, GENERAL McCOY pointed out, delegations were free to make whatever statements seemed to them appropriate. It was almost impossible, he said, for the Commission as such to reach agreement on a statement for release to the press, and furthermore a statement drafted with the intent of fixing responsibility on one delegation for a lack of Commission action would not give the full picture of Commission negotiations to the public.

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MR. REUCHLIN said that the reasons for his suggested statement had been well stated by the New Zealand representative. He was interested in the release of the information to the public rather than in the form which the present release might take, and, if his suggested wording was not considered tactful, he thought that it might be left to the Secretariat to formulate the information for release to the press.

DR. KOO said that he considered it inadvisable to issue any statement to the press at this time. The question of a policy decision on restitution of looted property was so important that he refused to regard the voting at the present meeting as a final disposition of the matter. He could not imagine that the Commission would simply abandon its efforts at this stage and leave the valuable property involved to deteriorate. The failure of FEC-011/40 had been disappointing to him, since thirteen of the fourteen paragraphs in the paper had been supported. However, he was hopeful that all delegations would continue to consider methods of reaching agreement and, he repeated, he did not regard the present stage of developments as precluding further proposals on restitution. A statement to the press at this time would give the impression that the Commission had given up hope of adopting a policy on restitution. He would not want to join in giving such an impression. He would urge instead that every effort be made to reach agreement on the one point of difference which had so far prevented a policy.

The adoption of
MR. TSARAPKIN said that he could not ignore the form of Mr. Reuchlin's suggestion for the release of a press statement. He thought that the Netherlands representative was trying to put the Soviet position in the wrong light. The position of his delegation, he said, had been one of agreement with all fourteen paragraphs of FEC-011/40, even though some of them, particularly paragraph 8, had been somewhat unacceptable from the Soviet viewpoint. However, the Soviet delegation had made a number of concessions, having agreed with all amendments and additions made by other delegations, and had had the right to believe that the only amendment submitted by the Soviet delegation would also be approved. The Soviet delegation had strongly felt, however, that an additional provision covering looted ships found in waters of third countries should be included.

This additional provision had been the only Soviet amendment to the whole paper which had been proposed and it had also been voted for by the Chinese, French, and New Zealand representatives. Indeed, during earlier stages of discussion even the Netherlands representative had himself favored it. It would seem therefore that this amendment had reflected the interests of a number of other governments as well as those of the Soviet Government. It seemed to MR. TSARAPKIN, therefore, that all aspects of the paper, rather than simply the Soviet position, should be considered in connection with the failure of adoption of FEC-011/40, and consequently, he regarded the statement suggested by the Netherlands representative as inappropriate.

MR. REUCHLIN said that his suggestion had not contemplated the issuance of a one-sided statement to the press but rather the release of a factual statement which would leave to public opinion a judgment as to who was responsible for the failure to adopt a policy on restitution.

In view of the above discussion, ~~it was agreed that no statement regarding the foregoing proceedings should be released to the press.~~ *Agreement was reached as to the release of any statement regarding the foregoing proceedings.*

The meeting adjourned at 12:45 P.M.

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FEC--CONFIDENTIALMINUTES--97th FEC Mtg.11 March 1948FAR EASTERN COMMISSION

Minutes of the Ninety-seventh Meeting of the Far Eastern Commission,
Held in the Main Conference Room, 2516 Massachusetts Avenue, N. W.,
washington, D. C.
11 March 1948, 10:30 A.M.

REPRESENTATIVES PRESENT

Major General Frank R. McCoy (United States) Chairman
Mr. H. W. Bullock (Australia)
Mr. R. E. Collins (Canada)
Dr. S. H. Tan (China)
Mr. J. Daridan (France)
Mr. R. K. Nehru (India)
Mr. C. Reuchlin (Netherlands)
Air Commodore J. Findlay (New Zealand)
Mr. J. U. Jovellanos (Republic of the Philippines)
His Excellency Mr. A. S. Panyushkin (U.S.S.R.)
Mr. H. A. Graves (United Kingdom)

SECRETARY GENERAL

Mr. Nelson T. Johnson

NOTE: 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.

Minutes--97th FEC Mtg.

COPY NO. 138FEC-CONFIDENTIALRECORD OF APPROVAL OF MINUTESOF THE 97th FEC MEETING23 March 1948FAR EASTERN COMMISSIONRECORD OF APPROVALMINUTES OF THE NINETY-SEVENTH MEETING OF THE FAR EASTERN COMMISSIONNote by the Secretary General

1. The Commission, at its ninety-eighth meeting, 18 March 1948, approved the provisional minutes of its ninety-seventh meeting with the corrections embodied in the attached revisions of pages 2 and 4 .

2. Representatives are requested to insert the attached revisions of pages 2 and 4 in their file copies of the provisional minutes of the ninety-seventh meeting of the Commission, and to attach this formal record of approval to those copies as corrected.

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

Record of Approval of Minutes
of 97th FEC Meeting
23 March 1948

SUMMARY--FECFEC--CONFIDENTIALSUMMARY - 97th FEC Mtg.11 March 1948FAR EASTERN COMMISSIONSUMMARY OF MINUTES OF 97th MEETINGITEM 1 - APPROVAL OF THE MINUTES OF THE NINETY-SIXTH MEETING

Amended and approved.

ITEM 2 - PROPOSAL OF THE U.S.S.R. DELEGATION TO REVIEW THE DECISION OF THE SUPREME COMMANDER FOR THE ALLIED POWERS TO SEND A MEMBER OF HIS STAFF TO THE PROVISIONAL FREQUENCY BOARD TO MEET AT GENEVA (FEC-290/1, FEC-290)

Soviet representative withdrew FEC-290/1 and submitted substitute proposal (FEC-290/2), which was considered and postponed. In connection with consideration of this subject the Chairman ruled, in accordance with the views of the majority as obtained by a canvass, that in future a motion need not be seconded in order to be put to a vote.

ITEM 3 - SOVIET PROPOSAL CONCERNING PLANNED CREDITS FOR THE RECONSTRUCTION OF JAPANESE INDUSTRY (FEC-298, FEC-298/1)

No consideration; postponed.

ITEM 4 - a STATEMENT BY THE UNITED STATES REPRESENTATIVE OF THE FAR EASTERN COMMISSION ON REPARATIONS SHARES (FEC-278)b REPORT OF COMMITTEE NO. 1 TO THE FAR EASTERN COMMISSION REGARDING DIVISION OF REPARATIONS SHARES (FEC-219/25, 219 series)

No consideration; postponed.

ITEM 5 - ADVANCE TRANSFERS OF JAPANESE REPARATIONS (FEC-201/1)

No consideration; postponed.

ITEM 6 - OTHER BUSINESS

Attention invited to proposed communication to Embassy of Pakistan (subsequently circulated as FEC-286/2) for consideration at the next meeting. Notification by Chinese representative that he would submit a proposal on restitution of looted property at the next meeting.

ITEM 7 - PRESS RELEASE

None.

FEC-CONFIDENTIALITEM 1 - APPROVAL OF THE MINUTES OF THE NINETY-SIXTH MEETING

THE COMMISSION unanimously approved the minutes of its ninety-sixth meeting with connections as shown in the Record of Approval subsequently circulated.

ITEM 2 - PROPOSAL OF THE U.S.S.R. DELEGATION TO REVIEW THE DECISION OF THE SUPREME COMMANDER FOR THE ALLIED POWERS TO SEND A MEMBER OF HIS STAFF TO THE PROVISIONAL FREQUENCY BOARD TO MEET AT GENEVA (FEC-290/1, FEC-290)

MR. PANYUSHKIN recalled that although there had been extended discussion of FEC-290/1 at the Commission's meeting on 26 February, the views of some representatives had not yet been expressed. He was desirous of hearing the views of those representatives who had not yet spoken on this subject.

MR. JOVELLANOS said that he was still awaiting instructions from his Government on the Soviet proposal in FEC-290/1. He desired that final action be postponed until he had had an opportunity to receive such instructions.

MR. NEHRU said that two questions seemed to be involved: The first question concerned the propriety of the procedure which had been followed by the Supreme Commander in sending an observer to the Provisional Frequency Board. The second question concerned the advisability of Japan's being represented at the Provisional Frequency Board. As to the first of these questions, he felt that there was some merit in the Soviet contention that the proper procedure had not been followed. He understood that in the absence of a policy decision the United States Government and the Supreme Commander were free to act as they deemed advisable. However, in this case the subject had been under consideration by the Commission and indeed a majority view had emerged within one of the Commission's organs, the Steering Committee. In view of the fact that the matter was under consideration by the Commission, MR. NEHRU felt that it would have been appropriate for the Supreme Commander to suspend his action until a Commission policy decision had been adopted. He could therefore agree with the Soviet contention that the procedure which had been followed was not entirely correct.

With regard to the advisability of attendance by a SCAP observer at the Provisional Frequency Board, however, MR. NEHRU said that he did not agree with the Soviet view that such attendance was inadvisable. He knew from personal experience that his own Government had decided that representation of India at the Provisional Frequency Board was absolutely essential. He was convinced that if there were no representation on behalf of the Supreme Commander during the allocation of frequencies, the interests of Japan would suffer seriously. He concluded therefore that the decision to have SCAP representation present at the Frequency Board had been correct, and that the Supreme Commander had not exceeded his authority in sending representation. However, the procedure followed had perhaps not been entirely proper and he personally felt that it would have been advisable for the Supreme Commander to have ascertained the views of the Commission before sending his observer.

MR. BULLOCK said that he was not in a position to support the Soviet proposal shown in FEC-290/1. In the first place there were certain obscurities and irregularities in the wording. There was a reference in the second paragraph of Enclosure "B" to "this policy decision of the Commission". MR. BULLOCK said that there was in fact no policy decision to refer to in this connection. He was not in a position at this point to comment on the question of the Supreme Commander's authority. The main

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issue in connection with the Soviet proposal in Enclosure "B" seemed to be whether or not it was advisable for a SCAP observer to be present at the Provisional Frequency Board. MR. BULLOCK said that he was not prepared to give a final answer on this question, but that he had heard arguments in favor of such attendance, but so far had heard none against it. It would seem advisable, MR. BULLOCK emphasized, that the Commission turn its attention to the adoption of a policy decision on this matter since, in the absence of a policy decision, it was difficult to review an action by the Supreme Commander. Furthermore, if a policy decision were adopted one way or the other, any further occurrence of faits accomplis on the part of the Supreme Commander would be precluded. He urged therefore that every effort be made to expedite consideration of the New Zealand proposal on this subject now on the agenda of the Steering Committee.

MR. COLLINS said that his position was similar to that expressed by the Australian representative. As he had said before (page 2, Minutes, 95th FEC Meeting) in connection with the discussion of FEC-236/10, Attendance at Inter-Governmental Conferences, he did not wish to discuss the issue of implementation versus policy. Likewise, on the present subject he did not wish to discuss the reserve authority of the United States Government under the Terms of Reference nor the scope of authority of the Supreme Commander. He hoped that by the early adoption of a Commission policy decision any possibility of further action by the Supreme Commander which would give rise to such a discussion would be eliminated. With regard to the specific proposal shown in Enclosure "B" of FEC-290/1, he could not agree that the sending of an observer with a Japanese technical expert to the Provisional Frequency Board was inadvisable and he would therefore have to vote against the proposal.

MR. PANYUSHKIN said that the Soviet delegation could not agree with the majority view that the sending of SCAP representation to the Provisional Frequency Board had been advisable. The Supreme Commander, he said, had decided, without even instructions from the United States Government, to take this action. Although the authority of the United States Government to issue interim directives in certain cases was recognized, the Soviet delegation could not recognize any similar independent authority of the Supreme Commander. The action was therefore incorrect, he said, and constituted a circumvention of the Far Eastern Commission. However, he realized that the fact of the sending of the representation was indeed accomplished. He also understood that the majority of the representatives regarded the attendance of SCAP representation at the Provisional Frequency Board as advisable. In view of this he would withdraw his proposal shown in FEC-290/1 and offer the following substitute proposal (subsequently circulated as FEC-290/2):

"At the same time the Far Eastern Commission does not share the U. S. Government's opinion stated in FEC-290 on the authority of the Supreme Commander in the matter of sending his representatives to inter-governmental conferences, since the Government of the United States does not also seem to take into consideration the circumstance that the said action was taken by the Supreme Commander at the time when the Far Eastern Commission had not yet solved the question under its consideration."

GENERAL MCCOY said that the new Soviet statement did not seem to involve the adoption of a policy decision. He asked whether the Soviet representative desired to reformulate it in the form of a policy decision or to refer it to the Steering Committee for consideration in connection with the New Zealand proposal on Attendance at Inter-Governmental Conferences.

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issue in connection with the Soviet proposal in Enclosure "B" seemed to be whether or not it was advisable for a SCAP observer to be present at the Provisional Frequency Board. MR. BULLOCK said that he was not prepared to give a final answer on this question, but that he had heard arguments in favor of such attendance, but so far had heard none against it. It would seem advisable, MR. BULLOCK emphasized, that the Commission turn its attention to the adoption of a policy decision on this matter since, in the absence of a policy decision, it was difficult to review an action by the Supreme Commander. Furthermore, if a policy decision were adopted one way or the other, any further occurrence of faits accomplis on the part of the Supreme Commander would be precluded. He urged therefore that every effort be made to expedite consideration of the New Zealand proposal on this subject now on the agenda of the Steering Committee.

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MR. PANYUSHKIN said that the Soviet delegation could not agree with the majority view that the sending of SCAP representation to the Provisional Frequency Board had been advisable. The Supreme Commander, he said, had decided, without even instructions from the United States Government, to take this action. Although the authority of the United States Government to issue interim directives in certain cases was recognized, the Soviet delegation could not recognize any similar independent authority of the Supreme Commander. The action was therefore incorrect, he said, and constituted a circumvention of the Far Eastern Commission. However, he realized that the fact of the sending of the representation was indeed accomplished. He also understood that the majority of the representatives regarded the attendance of SCAP representation at the Provisional Frequency Board as advisable. In view of this he would withdraw his proposal shown in FEC-290/1 and offer the following substitute proposal (subsequently circulated as FEC-290/2):

"The Far Eastern Commission considers the decision of the Supreme Commander to send his representative and a Japanese expert to Geneva as a wrong one, since it has been taken by him in evasion of the Far Eastern Commission which is considering the paper concerning participation of representatives of the Supreme Commander's Headquarters in the capacity of observers at inter-governmental conferences.

"At the same time the Far Eastern Commission does not share the U. S. Government's opinion stated in FEC-290 on the authority of the Supreme Commander in the matter of sending his representatives to inter-governmental conferences, since the Government of the United States does not also seem to take into consideration the circumstance that the said action was taken by the Supreme Commander at the time when the Far Eastern Commission had not yet solved the question under its consideration."

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GENERAL McCOY said that the new Soviet statement did not seem to involve the adoption of a policy decision. He asked whether the Soviet representative desired to reformulate it in the form of a policy decision or to refer it to the Steering Committee for consideration in connection with the New Zealand proposal on Attendance at Inter-Governmental Conferences.

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In regard to the substance of the Soviet statement, GENERAL MCCOY said that he considered it quite appropriate for any delegation to request the review of action taken by the Supreme Commander. However, he felt that some thought should be given the position of the Supreme Commander, faced with administrative problems as the sole Allied executive in Japan. He felt sure that there was no question of "evasion" involved. The Supreme Commander had been faced in this instance with the necessity for a quick decision, and if he had known that the Commission was considering the subject, he must also have known that this consideration had been going on for a period of months and that there was little likelihood of an agreement being reached in time for him to send an observer to this extremely important conference. GENERAL MCCOY said that he was convinced therefore that the Supreme Commander had taken the correct action and that the fact that he had transmitted information regarding this action to the United States Government to be relayed to the Commission effectively disposed of the charge of "evasion".

GENERAL MCCOY pointed out that the Supreme Commander derived his authority from various sources which included directives of the United States Government issued before the establishment of the Commission, policy decisions of the Commission, interim directives issued by the United States Government in accordance with the Terms of Reference, and general authority as the sole executive of the Allied Powers in Japan. It was the United States view that the Supreme Commander's authority as the sole executive of the Allied Powers in Japan had been the source of his authority for deciding, in the absence of a Commission policy decision, to send his representative to Geneva.

There was a wide area of subjects in which both the Commission and the Supreme Commander had authority, GENERAL MCCOY continued, If the Commission should pass a policy decision on any subject in this area, that policy decision would be controlling. In the absence of a policy decision, the Supreme Commander was competent to take action pending the adoption of one. Therefore, although there might well be differences of opinion as to the correctness of the action taken by the Supreme Commander in this instance, there was certainly no question of the Supreme Commander's flouting the authority of the Commission. He again asked what disposition the Soviet representative desired be made of his new statement.

MR. PANYUSHKIN said that it was the Soviet position that the action taken by the Supreme Commander had been incorrect and had constituted an evasion of the authority of the Commission. The Supreme Commander seemed to have forgotten that the Far Eastern Commission was in existence. He could not agree with the United States view that the Supreme Commander was competent independently to decide on the sending of a representative to an international conference. Such a position he thought, might be considered to imply that the jurisdiction and prerogatives of the Commission itself should be reviewed. Under the Terms of Reference such decisions as the one now in question were within the jurisdiction of the Commission. If the Commission should fail to act, the United States Government could, in certain cases, issue interim directives to the Supreme Commander. However, in the present instance the Supreme Commander had acted in the absence of either a Commission policy decision or an interim directive. In so doing, he had exceeded his authority, MR. PANYUSHKIN said, and it was necessary therefore that the Commission consider the Soviet statement and take action on it.

MR. GRAVES said that in its present form the Soviet statement contained the elements of a reprimand of the Supreme Commander. The Supreme Commander for the Allied Powers, he pointed out, occupied his position as the result of his appointment by various Governments, including the United Kingdom Government. Any

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proposal containing criticism of the Supreme Commander should properly be referred to these Governments. He did not consider that representatives on the Far Eastern Commission were competent to criticize the Supreme Commander. He would therefore have to refer this proposal to his Government, and as a representative of the Far Eastern Commission refrain from making any comments on it.

MR. BULLOCK repeated his view that the Commission should devote itself to the formulation of a policy decision. He realized the unpalatable nature of faits accompli, but their further occurrence would be precluded if the Commission would adopt a policy and thereby afford itself strong grounds for review of the Supreme Commander's actions. He did not wish without his receiving instructions from his Government to indulge in criticism of the Supreme Commander, and furthermore the substitute Soviet statement raised several highly legal questions upon which he could not speak authoritatively at present. For example, it was difficult for him to understand the legal basis for the use of the term "evasion" nor was he familiar with any reference in the Terms of Reference as to action the Supreme Commander might appropriately take during the consideration of a problem by the Commission. He urged therefore that the Commission's efforts be devoted to the adoption of a policy decision. If the Soviet representative should insist upon further discussion of his statement, however, he would have no further comment until he had secured his Government's views.

DR. TAN suggested that in the interests of expediting the work of the Commission and also because of the Supreme Commander's position as representative of the Allies, the Commission concentrate on the formulation of a policy decision on this subject. It was the Chinese view that such a policy decision should leave to the discretion of the Supreme Commander the appointment of observers at inter-governmental conferences, with the right of the Commission reserved, as in every case, to review his action. The policy should further provide that Japanese technical personnel should accompany such observers only with the prior approval of the Commission. Whether or not it was correct for the Supreme Commander to send observers to conferences, DR. TAN said, it was nevertheless true that he had sent such observers as early as 1946, at which time such an observer, accompanied by a Japanese technical expert named Morinaga, had attended an FAO conference at Trivandrum. He did not know whether or not the Secretariat had circulated any information on this subject to the Commission, but in any event, he felt that all representatives had been somewhat delinquent in not raising the matter at an earlier date and he thought that the best course to follow at present would be to refer the Soviet statement to the Steering Committee for consideration in connection with the proposed policy decision already on its agenda.

MR. DARIDAN agreed that the Commission should pass a policy decision on this subject as soon as possible. Mr. Naggiar had previously expressed the French position in this connection. (page 2 - Minutes, 95th FEC Mtg.). He could only add that he saw nothing in the Terms of Reference to indicate that the Supreme Commander had exceeded his authority in sending an observer to Geneva and therefore he could not support the criticism shown in the Soviet statement.

GENERAL MCCOY said that there seemed to be general agreement as to the desirability of passing a policy decision on this subject. If there were no objection, and if the Soviet representative had no view as to the appropriate disposition of his paper, he would favor its reference to the Steering Committee for consideration in conjunction with the proposed policy decision.

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proposal containing criticism of the Supreme Commander should properly be referred to these Governments. He did not consider that representatives on the Far Eastern Commission would be wise, in this case, to criticize the Supreme Commander. He would therefore have to refer this proposal to his Government, and as a representative of the Far Eastern Commission refrain from making any comments on it.

MR. BULLOCK repeated his view that the Commission should devote itself to the formulation of a policy decision. He realized the unpalatable nature of faits accomplis, but their further occurrence would be precluded if the Commission would adopt a policy and thereby afford itself strong grounds for review of the Supreme Commander's actions. He did not wish without his receiving instructions from his Government to indulge in criticism of the Supreme Commander, and furthermore the substitute Soviet statement raised several highly legal questions upon which he could not speak authoritatively at present. For example, it was difficult for him to understand the legal basis for the use of the term "evasion" nor was he familiar with any reference in the Terms of Reference as to action the Supreme Commander might appropriately take during the consideration of a problem by the Commission. He urged therefore that the Commission's efforts be devoted to the adoption of a policy decision. If the Soviet representative should insist upon further discussion of his statement, however, he would have no further comment until he had secured his Government's views.

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MR. DARIDAN agreed that the Commission should pass a policy decision on this subject as soon as possible. Mr. Naggiar had previously expressed the French position in this connection (page 2, Minutes, 95th FEC Meeting). He could only add that he saw nothing in the Terms of Reference to indicate that the Supreme Commander had exceeded his authority in sending an observer to Geneva and therefore he could not support the criticism shown in the Soviet statement.

GENERAL McCOY said that there seemed to be general agreement as to the desirability of passing a policy decision on this subject. If there were no objection, and if the Soviet representative had no view as to the appropriate disposition of his paper, he would favor its reference to the Steering Committee for consideration in conjunction with the proposed policy decision.

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MR. PANYUSHKIN said that he would not favor reference of his statement to a lower working level than the Commission itself. It would, he thought, be easier to reach agreement on this proposal at the Commission level than it would be at the level of the Steering Committee or of a working committee.

MR. PANYUSHKIN said that he did not understand why the question he had raised should be regarded as a legal question. He considered it one of substance having to do with existing facts, particularly the fact that the Supreme Commander had exceeded his authority in sending his representative to the Provisional Frequency Board at Geneva without Commission approval or indeed even the instructions of his own Government. From both a legal and a factual point of view, he said, there had been an evasion of the authority of the Commission. He thought, therefore, that the adoption of his proposal would serve a useful purpose in clarifying the scope of the Supreme Commander's authority.

MR. PANYUSHKIN said that he could not agree with the United Kingdom representative's remark to the effect that he could not discuss a proposal containing elements of criticism of the Supreme Commander. He did not think that the Commission had been created for the exclusive purpose of adopting policy decisions. The Commission should concern itself also with the manner of implementation by the Supreme Commander of its policy decisions. The United Kingdom view, he thought, implied that the Commission's sole activity should be the adoption of policy decisions. Such a view, he emphasized, was incorrect: The Commission should also control the implementation of its decisions by the Supreme Commander. It was necessary especially because on the part of the Supreme Commander there were instances of violation of some policy decisions of the Commission.

MR. GRAVES said that his remark had been to the effect that he thought the Soviet proposal contained elements of reprimand of the Supreme Commander. He did not personally feel authorized to debate a proposal containing such elements of reprimand and thought that such a debate, if it were to take place, should be carried on by the Governments which had appointed the Supreme Commander.

GENERAL MCCOY pointed out that the Commission's Terms of Reference provided (Paragraph II A 2) that one of the functions of the Commission should be:

"2. To review, on the request of any member, any directive issued to the Supreme Commander for the Allied Powers or any action taken by the Supreme Commander involving policy decisions within the jurisdiction of the Commission."

Such a review, he emphasized, had reference to the substance of the Supreme Commander's implementation of Commission policy decisions and did not refer to captious criticism of action taken by the Supreme Commander in the absence of a Commission policy decision.

GENERAL MCCOY again asked what disposition should be made of the present Soviet proposal. MR. PANYUSHKIN replied that he desired it put to a vote. GENERAL MCCOY asked whether it should be voted on as a reprimand addressed to the Supreme Commander or as a policy decision. MR. PANYUSHKIN said that his proposal could be voted on as a statement to the effect that both the action taken by the Supreme Commander and the United States view in justifying his action were incorrect.