

RESTRICTEDAPPENDIXEXCERPT FROM THE MINUTES OF THE FORTY-EIGHTH MEETING OF THE
FAR EASTERN COMMISSION, 6 MARCH 1947ITEM 5 - INTERIM PRINCIPLES FOR RESTITUTION OF IDENTIFIABLE
PROPERTY CONFISCATED IN JAPAN FROM ALLIED NATIONALS
(FEC-011/28, FEC-011/24)

GENERAL McCOY noted that FEC-011/28 had been approved by the Steering Committee with the understanding that the following statement explaining the position of the Chinese Government would be included in the minutes of the Commission meeting at which the policy decision was approved and should be transmitted to the Supreme Commander for his information along with the policy directive:

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

"It is the understanding of the Chinese Delegation that the definition of 'the outbreak of hostilities' as indicated above is only for the purpose of this paper and will in no way affect policy statements to be adopted by the Far Eastern Commission relating to the question of restitution as a whole and the restitution of cultural objects removed from China by the Japanese Government, members of its armed forces, Japanese officials or nationals, or other enemy individuals or groups."

The French member of the Steering Committee had also expressed a desire to record the position of this Government with the understanding that the record of this position would be forwarded to the Supreme Commander in the same manner as the Chinese statement. MR. LACOSTE therefore presented the following formal statement:

"It is agreeable to the French Delegation to eliminate paragraph 1. b. from the document FEC-011/27 if it is clearly understood that for the purpose of this paper the expression 'the outbreak of hostilities' in paragraph 1 should be regarded, insofar as France is concerned, as 22 September 1940."

FEC-011/29

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

FEC-011/30

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2 April 1947

FAR EASTERN COMMISSION

INTERIM PRINCIPLES FOR RESTITUTION OF
IDENTIFIABLE PROPERTY CONFISCATED IN JAPAN
FROM ALLIED NATIONALS
(FEC-011/29)

Note by the Secretary General

1. The enclosure, a United States directive to the Supreme Commander for the Allied Powers forwarding the statement of policy of the Far Eastern Commission relating to interim principles for restitution of identifiable property confiscated in Japan from Allied Nationals, is circulated herewith for the information of the Far Eastern Commission.

2. This directive was forwarded to the Supreme Commander on 22 March 1947.

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

NELSON T. JOHNSON
Secretary General

FEC-011/30

RESTRICTEDE N C L O S U R EINTERIM PRINCIPLES FOR RESTITUTION OF
IDENTIFIABLE PROPERTY CONFISCATED IN JAPAN
FROM ALLIED NATIONALSSerial No. 73

22 March 1947

The following directive, prepared by the State Department to implement the policy adopted by the Far Eastern Commission, on 6 March 1947, under the provisions of paragraph II, A, 1, of its terms of reference has been received from the State, War and Navy Departments for transmission to you for your guidance in accordance with paragraph III, 1, of those terms of reference:

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

"A. Subject to your discretion, restitution should be made at this time only to:

"(1) Natural persons present in Japan;

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

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

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

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

"D. You are satisfied as to the identification of such property.

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

"3. For the purpose of determining whether property was in fact confiscated it should be assumed that all property taken by the Japanese or other enemy Government, armed forces,

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or nationals during the recent hostilities from nationals of any of the United Nations was confiscated whether or not payment was made at the time of acquisition unless it can be definitely shown that no duress or fraud was involved.

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

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

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

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

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

FEC-011/31RESTRICTEDFEC-011/3122 July 1947FAR EASTERN COMMISSIONRESTITUTION OF LOOTED PROPERTY
(References: FEC-011/12; CI-002/33)Note by the Secretary General

1. The enclosure, a revision of FEC-011/12, Restitution of Looted Property, was approved by Committee No. 1: Reparations at its 115th Meeting on 21 July 1947 and is forwarded herewith for the consideration of the STEERING COMMITTEE.

2. FEC-011/12, Restitution of Looted Property was approved by the Far Eastern Commission on 18 July 1946 and transmitted to the Supreme Commander for the Allied Powers on 24 July 1946. The policy was amended by FEC-011/21, Restitution of Looted Property, approved by the Far Eastern Commission on 10 October 1946 and transmitted to the Supreme Commander for the Allied Powers on 16 October 1946.

3. The Chinese and Soviet positions are reserved on the enclosure. The Indian position is reserved on paragraph 8. The United States position is reserved on paragraph 14.

4. All changes indicated are to the original policy decision FEC-011/12 as amended by FEC-011/21.

NELSON T. JOHNSON
Secretary General

FEC-011/31

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

1. This paper supersedes FEC-011/12 (RESTITUTION OF LOOTED PROPERTY approved 18 July 1946, and transmitted to the Supreme Commander for the Allied Powers on 24 July 1946 as Directive Serial No. 57) as amended by FEC-011/21 (Restitution of Looted Property, approved 10 October 1946, and transmitted to the Supreme Commander for the Allied Powers on 16 October 1946 as Directive Serial No. 61), and also supersedes FEC-047/2 (DISPOSITION OF MERCHANT SHIPPING, filed with the Far Eastern Commission on 24 May 1946 and transmitted to the Supreme Commander for the Allied Powers on 14 May 1946).

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

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

3. Steps should be taken to restore to Allied countries ships of all types and sizes found in Japanese waters which are identified as having been registered in an Allied country at the time of seizure or sinking by the Japanese or their agents, or at the time of acquisition by the Japanese or their agents by fraud, force or duress. The fact that payment was made should be disregarded unless there is conclusive evidence that fraud force or duress did not take place. Within the limits of feasibility ships found in Japanese waters, whether seaworthy, sunk or damaged, should, on the request of the claimant country, be refitted, or salvaged, repaired and refitted, as a matter of priority in Japanese yards, to permit their return in a condition substantially similar to that at the time they came into Japanese hands. The foregoing costs should be borne by the Japanese Government. Restitution of such Allied vessels-if-seaworthy-should-be-accomplished-as rapidly-as-conditions-permit-and-should-be-completed-not-later-than-December-31;-1946.

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3. ~~Within the limits of feasibility, ships damaged or sunk and found in Japanese waters, on the request of the claimant country should as a matter of priority be salvaged; repaired, or refitted as may be necessary to permit their return in a condition substantially similar to that at the time they came into Japanese hands. The costs of necessary salvage, repair and refitting in Japan should be borne by the Japanese Government but should be applied against the reparations apportionment to the claimant country. Salvage, repair or refitting should be completed as soon as possible, but not necessarily before 31 December 1946.~~

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

5. The claimant government should take delivery at a point in Japan designated by the Supreme Commander for the Allied Powers except that at the discretion of the Supreme Commander and by agreement with the recipient country. (A) in the case of Allied vessels subject to restitution the Supreme Commander may at his discretion make delivery at Western Pacific points outside Japan whenever delivery will thereby be facilitated, in which case any costs of supporting and repatriating ships' crews used for such delivery should not be borne by the recipient country unless it specifically agrees to do so; and (B) in the case of delivery of other items of looted property, unutilized outgoing shipping space of Japanese vessels being employed in the importation of goods or repatriation of Japanese from a restitution recipient country to Japan may be made available at the expense of the Japanese Government but at the risk of the recipient country to deliver such items at points outside Japan. Expenses incurred after delivery to the claimant government should be borne by that government, except that in the case of delivery within Japan, relevant transportation expenses within Japan and any dismantling, packing and repair necessary for proper transportation, including the necessary manpower, materials and organization, should be borne by Japan and be included in restitution. The recipient government should indemnify the Supreme Commander for the Allied Powers against all claims made in respect of the property received.

6. Restitution claims for property other than ships should be made by the government of the Allied country from whose territory the property claimed was removed; and restitution made to that government. In the case of ships, restitution claims should be filed by, and restitution made to, the government of the country whose flag the vessels were wearing or on whose register of shipping the vessels were borne at the time of sinking, seizure or acquisition as specified in paragraph 2: 3.

7. No items property, including cultural objects, should be included in Japanese exports programs which the Supreme Commander for the Allied Powers considers as probably subject to restitution, as defined above. If items later found to be subject to restitution should be exported or liquidated equitable compensation should be made to that country to which

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the items exported or liquidated should have been restored.

8. After full opportunities have been given for inspection of objects known to have been looted the Supreme Commander for the Allied Powers should be authorized to liquidate property including stocks of gold, silver, other precious metals, precious stones and jewels but not cultural objects, known to have been looted but not identified pursuant to the terms of this paper, the proceeds of such liquidation to form a secured fund to be used as collateral or as payment for imports required for self-liquidating production programs in Japan of a link or modified link character. The Governments of Australia, China, France, India, Netherlands, Philippines, and U. K. should have a priority right to purchase items offered for liquidation by foreign exchange acceptable to SCAP, up to but not exceeding their recognized national reparations percentage shares (adjusted to total 100%, applicable to this pool) of industrial assets available from within Japan. The initial value of this secured fund is to be preserved by SCAP or successor authority. In the final disposition of this secured fund, the claims of countries specified above against the fund should constitute a permanent and inviolable lien payable in U. S. Dollars, or, at the direction of SCAP, in foreign exchange acceptable to the recipient countries in accordance with the percentages mentioned above. The secured fund shall be distributed to the recipient countries not later than 1 January 1950.

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

9- 10. The Far Eastern Commission should recommend to the Government of those countries within whose territories may be found ~~looted~~ looted or acquired by fraud, force or duress by the Japanese such as:

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

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

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

12. The Supreme Commander for the Allied Powers shall create an agency comprising one representative from each of the restitution and reparations teams in Japan of the eleven member countries of the Far Eastern Commission to advise on restitution matters. In addition, the Supreme Commander or his deputy should act as the non-voting chairman of the agency. It may meet at the call of the Supreme Commander or at the request of any member. The Supreme Commander should notify the United States Government of the views of the agency when his views conflict with those of the majority of the member countries.

13. In applying standards of identification with respect to claims for looted property, SCAP should observe the following principles:

a. In cases of doubt, the presumption should be in favor of the claimant country whenever permitted by the broadest application of law, equity and common sense.

b. In cases of doubt as to the adequacy of the evidence of ownership submitted to support a claim for an object known to have been looted, the Supreme Commander shall inform the other members of the advisory agency of the existence of the claim. The advisory agency, after examining the evidence, shall give its advice to the Supreme Commander as to whether the claim should be approved or the provisions of paragraph 8 above applied.

14. No claims for the restitution of looted property should be lodged with SCAP after 12 months from the issuance of a directive to SCAP giving effect to this policy decision (CI-002/31); provided that after such terminal date, claims may, with the concurrence of SCAP, be lodged for property known to have been looted but not yet identified pursuant to the provisions of this paper; and provided also that adequate opportunity be given to representatives of looted countries both before and after such terminal date to inspect property known to have been looted but not yet identified.

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FEC-011/32FEC-RESTRICTEDFEC-011/3229 July 1947FAR EASTERN COMMISSIONRESTITUTION OF LOOTED PROPERTY
(References: FEC-011/12, -011/31)Note by the Secretary General

1. The enclosure, a revision of FEC-011/12, Commission policy on Restitution of Looted Property, was approved by the Steering Committee at its seventy-third meeting, 29 July 1947 and is forwarded herewith for the consideration of the Far Eastern Commission.

2. FEC-011/12, Restitution of Looted Property was approved by the Far Eastern Commission on 18 July 1946 and amended by FEC-011/21, Restitution of Looted Property, approved on 10 October 1946.

3. The Chinese and Soviet positions are reserved on the enclosure, and the French member opposed it.

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

NELSON T. JOHNSON
Secretary General

FEC-011/32

FEC-RESTRICTEDE N C L O S U R ERESTITUTION OF LOOTED PROPERTY

1. This policy supersedes FEC-011/12 (Restitution of Looted Property approved 18 July 1946, and transmitted to the Supreme Commander for the Allied Powers on 24 July 1946 as Directive Serial No. 57) as amended by FEC-011/21 (Restitution of Looted Property, approved 10 October 1946, and transmitted to the Supreme Commander for the Allied Powers on 16 October 1946 as Directive Serial No. 61), and also supersedes FEC-047/2 (Disposition of Captured Japanese Merchant Vessels, filed with the Far Eastern Commission on 24 May 1946 and transmitted to the Supreme Commander for the Allied Powers on 13 May 1946 as Directive Serial No. 44).
2. Immediate steps should be taken to restore to Allied countries property which is found in Japan and which is identified in accordance with this paper as having been located in an Allied country at or during the time of occupation of that country, and which was removed by fraud, force or duress by the Japanese or their agents. The fact that payment was made should be disregarded unless there is conclusive evidence that fraud, force or duress did not take place. Restitution of industrial and transportation machinery and equipment should be deferred, however, so long as its retention is required for the safety of the occupation forces. In such cases the Supreme Commander for the Allied Powers should provide an explanation of reasons for retention and an estimated date of restoration. Special policies with respect to ships are stated below.
3. Steps should be taken to restore to Allied countries ships of all types and sizes found in Japanese waters which are identified as having been registered in an Allied country at the time of seizure or sinking by the Japanese or their agents, or at the time of acquisition by the Japanese or their agents by fraud, force or duress. The fact that payment was made should be disregarded unless there is conclusive evidence that fraud, force or duress did not take place. Within the limits of feasibility ships found in Japanese waters, whether seaworthy, sunk or damaged, should, on the request of the claimant country, be refitted, or salvaged, repaired and refitted, as a matter of priority in Japanese yards, to permit their return in a condition substantially similar to that at the time they came into Japanese hands. The foregoing costs should be borne by the Japanese Government.
4. The processing of claims for industrial and transportation machinery and equipment found in Japan should not be permitted in general to delay removals of machinery and equipment on reparations account, but no item for which restitution claim has been received by the Supreme Commander for the Allied Powers should be allocated on reparations account until the claim has been acted upon. On the other hand, no restitution claim should be recognized for articles already delivered to particular countries on reparations account.
5. The claimant government should take delivery at a point in Japan designated by the Supreme Commander for the Allied Powers except that at the discretion of the Supreme Commander and by agreement with the recipient country, (A) in the case of Allied vessels subject to restitution the Supreme Commander may make delivery at Western Pacific points

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outside Japan whenever delivery will thereby be facilitated, in which case any costs of supporting and repatriating ships' crews used for such delivery should not be borne by the recipient country unless it specifically agrees to do so; and (B) in the case of delivery of other items of looted property, unutilized outgoing shipping space of Japanese vessels being employed in the importation of goods or repatriation of Japanese from a restitution recipient country to Japan may be made available at the expense of the Japanese Government but at the risk of the recipient country to deliver such items at points outside Japan. Expenses incurred after delivery to the claimant government should be borne by that government, except that in the case of delivery within Japan, relevant transportation expenses within Japan and any dismantling, packing and repair necessary for proper transportation, including the necessary manpower, materials and organization, should be borne by Japan and be included in restitution. The recipient government should indemnify the Supreme Commander for the Allied Powers against all claims made in respect of the property received.

6. Restitution claims for property other than ships should be made by the government of the Allied country from whose territory the property claimed was removed; and restitution made to that government. In the case of ships, restitution claims should be filed by, and restitution made to, the government of the country whose flag the vessels were wearing or on whose register of shipping the vessels were borne at the time of sinking, seizure or acquisition as specified in paragraph 3.

7. No property, including cultural objects, should be included in Japanese exports which the Supreme Commander for the Allied Powers considers as probably subject to restitution. If items later found to be subject to restitution should be exported or liquidated equitable compensation should be made to that country to which the items exported or liquidated should have been restored.

8. After full opportunities have been given for inspection of objects known to have been looted the Supreme Commander for the Allied Powers should be authorized to liquidate property including stocks of gold, silver, other precious metals, precious stones and jewels but not cultural objects, known to have been looted but not identified pursuant to the terms of this paper, the proceeds of such liquidation to form a secured fund to be used as collateral or as payment for imports required for self-liquidating production programs in Japan of a link or modified link character. The Governments of Australia, China, France, India, Netherlands, Philippines, and U. K. should have a priority right to purchase items offered for liquidation by foreign exchange acceptable to SCAP, up to but not exceeding their recognized national reparations percentage shares (adjusted to total 100%, applicable to this pool) of industrial assets available from within Japan. The initial value of this secured fund is to be preserved by SCAP or successor authority. In the final disposition of this secured fund, the claims of countries specified above against the fund should constitute a permanent and inviolable lien payable in U. S. Dollars, or, at the direction of SCAP, in foreign exchange acceptable to the recipient countries in accordance with the percentages mentioned above. The secured fund shall be distributed to the recipient countries not later than 1 January 1950.

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

10. The Far Eastern Commission should recommend to the Government of those countries within whose territories may be found objects looted or acquired by fraud, force or duress by the Japanese such as:

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

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

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

12. The Supreme Commander for the Allied Powers shall create an agency comprising one representative from each of the restitution and reparations teams in Japan of the eleven member countries of the Far Eastern Commission to advise on restitution matters. In addition, the Supreme Commander or his deputy should act as the non-voting chairman of the agency. It may meet at the call of the Supreme Commander or at the request of any member. The Supreme Commander should notify the United States Government of the views of the agency when his views conflict with those of the majority of the member countries.

13. In applying standards of identification with respect to claims for looted property, SCAP should observe the following principles:

a. In cases of doubt, the presumption should be in favor of the claimant country whenever permitted by the broadest application of law, equity and common sense.

b. In cases of doubt as to the adequacy of the evidence of ownership submitted to support a claim for an object known to have been looted, the Supreme Commander shall inform the other members of the advisory agency of the existence of the claim. The advisory agency, after examining the evidence, shall give its advice to the Supreme Commander as to whether the claim should be approved or the provisions of paragraph 8 above applied.

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14. No claims for the restitution of looted property should be lodged with SCAP after 8 months from the issuance of a directive to SCAP giving effect to this policy decision; provided that after such terminal date, claims may, with the concurrence of SCAP, be lodged for property known to have been looted but not yet identified pursuant to the provisions of this paper; and provided also that adequate opportunity be given to representatives of looted countries both before and after such terminal date to inspect property known to have been looted but not yet identified.

FEC-011/33FEC-RESTRICTEDFEC-011/3331 July 1947FAR EASTERN COMMISSIONRESTITUTION OF LOOTED PROPERTY
(Reference: FEC-011/32)Note by the Secretary General

The following paragraph should be substituted for paragraph 3 of FEC-011/32:

"The Steering Committee approved the enclosure by a vote of 7 to 1 with the U.S.S.R. opposed and China, France and New Zealand abstaining. The Soviet member opposed the enclosure due to the exclusion of the Soviet amendment to paragraph 10, and the French member was opposed to the principle involved in paragraph 8."

NELSON T. JOHNSON
Secretary General

FEC-011/33

FEC-011/34FEC-RESTRICTEDFEC-011/3415 August 1947FAR EASTERN COMMISSIONRESTITUTION OF LOOTED PROPERTY
(References: FEC-011/32, FEC-011/12)Note by the Secretary General

The Far Eastern Commission at its seventieth meeting, 14 August 1947, referred FEC-011/32, Restitution of Looted Property, to an ad hoc subcommittee of the Commission consisting of United Kingdom, Chinese, Soviet and United States Representatives, with instructions to report back at the next meeting of the Commission.

SAMUEL S. STRATTON
Acting Secretary General

FEC-011/34

FEC 011/35FEC RESTRICTEDFEC 011/3516 September 1947FAR EASTERN COMMISSIONRESTITUTION OF LOOTED PROPERTY: REPORT OF AD HOC SUBCOMMITTEE
(References: FEC 011/32, FEC 011/12)Note by the Secretary General

1. The enclosure, a report by the ad hoc Subcommittee of the Commission on restitution of looted property, is circulated herewith for the consideration of the Far Eastern Commission.

2. The Far Eastern Commission at its seventieth meeting, 14 August 1947, referred FEC 011/32, Restitution of Looted Property, to an ad hoc Subcommittee of the Commission consisting of the United Kingdom (chairman), Chinese, Soviet and United States representatives to consider amendments by the Chinese and Soviet representatives and with instructions to report back at the next meeting of the Commission. At its seventy-first and seventy-second meetings, the Far Eastern Commission granted extensions of time to the Subcommittee to complete its work.

NELSON T. JOHNSON
Secretary General

FEC 011/35

FEC-RESTRICTEDE N C L O S U R EREPORT OF THE AD HOC SUBCOMMITTEE ON
RESTITUTION OF LOOTED PROPERTY

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

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

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

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

1. The Subcommittee agreed to recommend the emendation of the first sentence of paragraph 8 as follows:

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

The Chinese member accepted this amendment on a personal basis, subject to the approval of his Government.

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

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

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

3. The Subcommittee agreed to recommend the emendation of the penultimate sentence of paragraph 8 as follows:

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

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The Chinese member accepted this amendment with the understanding that the phrase "the percentage mentioned above" was subject to reconsideration for which the Chinese Delegation had submitted an amendment. (See paragraph 5 below)

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

4. The Chinese member proposed that paragraph 8 be amended to provide for distribution of the proceeds from the liquidation of unidentified looted property immediately upon liquidation.

The Chinese position was that the use of the proceeds from the sale of unidentified looted property in the manner prescribed by paragraph 8 would put Japan in a specially favored position in comparison to that of countries which were looted by Japan in the course of Japanese aggression against those countries.

The U. S. member said that the Chinese amendment was unacceptable to his Government. His Government's position in this matter was that the procedure set forth in paragraph 8 was an equitable one for the looted countries in that it granted them an equity in unidentified looted property.

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

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

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

5. The Chinese member proposed a further amendment to paragraph 8 with regard to the distribution of the proceeds from the liquidation of unidentified looted property. The Chinese proposal was that China, by reason of the fact that she was subjected to Japanese aggression for the longest duration of time, that she was more extensively occupied than any other country concerned, and that the looting undertaken by the Japanese was most extraordinary and thorough, should receive more than 50% of the proceeds from the liquidation of unidentified property.

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

The U. K. member said his Government desired the retention of the present wording of paragraph 8, namely that ultimate distribution of the secured fund should be in accordance with "recognized national reparations percentage shares of

FEC-011/35

industrial assets available from within Japan". He could not agree to preferential treatment for China.

The Chinese member said that his Government had no intention of seeking preferential treatment for China in this matter but was concerned solely with obtaining equitable treatment. His Government did not feel that distribution of the proceeds from the sale of unidentified looted property according to reparations shares was an equitable method of distribution, because they were based on different considerations. First of all attention should be called to the fact that, though this paper was still under discussion, there was consensus of opinion among the eleven members of the FEC that only seven countries should be benefited. The reason was that only seven of the eleven countries had been occupied and looted. This criterion was no doubt a sound one. This being the case, the country that had suffered the greatest loss as a result of extensive occupation and thorough looting should be duly compensated if equity was to be maintained.

Reparations and restitution were two different problems with a different set of conditions governing each problem. The FEC thus far had adopted two policy statements dealing with the general principle of reparations. The criteria used for computing shares for the eleven countries in industrial assets within Japan could not very well be used in determining the distribution of proceeds from the sale of unidentified looted property, the reason being that the reparations share for a member state was for its home country as well as for its territorial possessions concerned, if any. Happily, the home territories of some of the seven countries had never been occupied and looted. Different criteria, therefore, should be adopted if the question was to be dealt with fairly and equitably.

In determining equitably the losses of the seven countries through looting, such factors as the size of the area occupied, the duration of the occupation of that area and the extent of looting should be properly emphasized. It seemed clear to the Chinese Government, therefore, that distribution of the proceeds from the sale of unidentified looted property in accordance with reparations percentage shares was an inequitable method of distribution because it ignored the unique position of each looted country and did not take into account the factors just mentioned without which it was impossible to determine accurately the relative losses incurred by the seven countries through looting.

6. The Soviet member proposed the following amendment to paragraph 4:

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

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

The Chinese member said that, while his Government would prefer some provision in the restitution paper of the general principle contained in the Soviet amendment, it would

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not oppose treatment of this subject in a separate paper, since it was the desire of the Chinese Government to have this paper adopted as soon as possible.

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

FEC-011/36FEC-RESTRICTEDFEC-011/3618 September 1947FAR EASTERN COMMISSIONRESTITUTION OF LOOTED PROPERTY
(References: FEC-011/12, 011/32,
011/35)Note by the Secretary General

The Far Eastern Commission at its seventy-third meeting, 18 September 1947, referred FEC-011/32, Restitution of Looted Property, back to the ad hoc subcommittee appointed at the seventieth meeting of the Commission consisting of United Kingdom, Chinese, Soviet and United States Representatives, for further consideration.

NELSON T. JOHNSON
Secretary General

FEC-011/36

FEC-011/37FEC-RESTRICTEDFEC-011/371 October 1947FAR EASTERN COMMISSION

FURTHER REPORT OF AD HOC SUBCOMMITTEE ON
RESTITUTION OF LOOTED PROPERTY
(References: FEC-011/35, FEC-011/32, /12)

Note by the Secretary General

The enclosure, a further report of the ad hoc subcommittee on restitution of looted property, to which FEC-011/32 and FEC-011/35 were referred for further consideration, is circulated herewith for the consideration of the Far Eastern Commission.

NELSON T. JOHNSON
Secretary General

FEC-011/37

FEC-RESTRICTEDE N C L O S U R EFURTHER REPORT OF AD HOC SUBCOMMITTEE ON
RESTITUTION OF LOOTED PROPERTY

1. Introduction. The ad hoc subcommittee on restitution of looted property has undertaken further consideration of the three principal areas of disagreement regarding amendments to FEC-011/32, which were set forth in paragraphs 4, 5 and 6 of FEC-011/35, the preliminary report of the subcommittee, and reports herewith to the Commission as follows.

2. Revolving Fund. With respect to the issue presented in paragraph 4 of FEC-011/35, namely, the proposal of the Chinese member that paragraph 8 of FEC-011/32 be amended to provide for distribution of the proceeds from the liquidation of unidentified looted property immediately upon such liquidation, the subcommittee reports that it was unable to reach agreement.

a. The Chinese member stated that he had had the advantage of discussing the matter with the Foreign Minister of the Chinese Government who, after full consideration of all the facts, had replied that the Chinese Government could not justify to the Chinese people agreeing to any proposal that would mean that proceeds from property looted by the Japanese from other countries, including China itself, should be used to assist the Japanese economy at a time when the Chinese people were in dire need.

b. The U. S. member, in response to a question, explained that it was his personal view that if FEC-011/32 were not approved as a policy decision, the disposition of further looted property would have to be continued under the terms of FEC-011/12, and in that case unidentified looted gold and other precious metals would be disposed of in accordance with the provisions of paragraph 16 of FEC-032/26, Interim Import-Export Policies for Japan.

c. The U. S. member, in response to a suggestion from the U. K. member, agreed to consider exploring again with his Government the possibility of removing paragraph 8 from FEC-011/32 and dealing with it separately, but held out little hope of the acceptance of this proposal.

3. Shares. With respect to paragraph 5 of FEC-011/35, the Chinese proposal that paragraph 8 of FEC-011/32 be further amended to provide that China should receive more than 50 per cent of the proceeds from the liquidation of unidentified looted property, members of the Committee also failed to agree. The subcommittee accordingly reports this situation to the Commission, in order that other members, who would be affected by the proposed Chinese amendment, might have an opportunity to express their views.

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4. Looted Ships. Paragraph 6 of FEC-011/35 concerns a Soviet proposal that paragraph 10 of FEC-011/32 be amended to provide that the Japanese should bear the cost of "salvaging, repairing and refitting of looted ships in the cases where they were sunk or damaged", whenever these ships are found in the waters of some third country.

a. The subcommittee was generally in favor of recommending to the Commission that paragraphs 10 and 11 be deleted from FEC-011/32 and be treated as a separate paper, on the ground that both paragraphs refer to recommendations to other countries and therefore could not properly form the substance for a directive to SCAP; but the Soviet member regretted that he could not agree.

b. The Chinese member took the position that if this deletion were made, he would propose that an amendment be made to some other appropriate part of FEC-011/32, possibly at the end of paragraph 3, providing that ships of countries, members of the Far Eastern Commission, which were looted by the Japanese and subsequently sunk or damaged outside of Japanese waters, should, on the request of the country concerned, be salvaged, repaired, or refitted by the Japanese Government. This proposal, it was pointed out, in contrast to the original Soviet proposal, would make the Japanese liable for such costs even when the ships were located in territory of the claimant country itself.

c. The Soviet and Chinese members agreed to obtain such general information as they might wish with respect to the number, location, size, and condition of the ships which had prompted these amendments.

FEC-011/38FEC-RESTRICTEDFEC-011/383 October 1947FAR EASTERN COMMISSIONRESTITUTION OF LOOTED PROPERTY
(References: FEC-011/32, /12, /35, /37)Note by the Secretary General

The Far Eastern Commission at its seventy-fifth meeting, 2 October 1947, referred FEC-011/32. Restitution of Looted Property, and relevant papers back to COMMITTEE NO. 1: REPARATIONS for further consideration.

NELSON T. JOHNSON
Secretary General

FEC-011/38

FEC-011/39FEC-RESTRICTEDFEC-011/3917 November 1947FAR EASTERN COMMISSIONRESTITUTION OF LOOTED PROPERTY(References: FEC-011/12, /21, /32 through /38)Note by the Secretary General

1. The enclosure, a revision of FEC-011/12, Restitution of Looted Property, was approved by Committee No. 1: Reparations at its 135th meeting on 14 November 1947 and is forwarded herewith for the consideration of the STEERING COMMITTEE.

2. FEC-011/12, Restitution of Looted Property, was approved by the Far Eastern Commission on 18 July 1947 and amended by FEC-011/21, Restitution of Looted Property, approved on 10 October 1946.

3. On 29 July 1947 the Steering Committee forwarded FEC-011/32, a proposed revision of FEC-011/12, to the Far Eastern Commission for consideration. The Far Eastern Commission, at its 75th meeting on 2 October 1947, referred FEC-011/32 together with relevant papers, back to Committee No. 1: Reparations, for further consideration.

4. The Soviet delegation, in approving the motion to forward the enclosure to the Steering Committee, reserved the right to make further proposals on the subject of shipping in the Steering Committee and the Commission.

5. The motion to forward the enclosure to the Steering Committee was unanimously approved by Committee No. 1.

6. In accordance with paragraph 3 of FEC-067/3, Committee No. 1 recommends that the enclosure be released to the press in the normal procedure.

NELSON T. JOHNSON
Secretary General

FEC-011/39

FEC-RESTRICTEDENCLOSURERESTITUTION OF LOOTED PROPERTY

1. This policy supersedes FEC-011/12 (Restitution of Looted Property approved 18 July 1946, and transmitted to the Supreme Commander for the Allied Powers on 24 July 1946 as Directive Serial No. 57) as amended by FEC-011/21 (Restitution of Looted Property, approved 10 October 1946, and transmitted to the Supreme Commander for the Allied Powers on 16 October 1946 as Directive Serial No. 61), and also supersedes FEC-047/2 (Disposition of Captured Japanese Merchant Vessels, filed with the Far Eastern Commission on 24 May 1946 and transmitted to the Supreme Commander for the Allied Powers on 13 May 1946 as Directive Serial No. 44).

2. Immediate steps should be taken to restore to Allied countries property which is found in Japan and which is identified in accordance with this paper as having been located in an Allied country at or during the time of occupation of that country, and which was removed by fraud, force or duress by the Japanese or their agents. The fact that payment was made should be disregarded unless there is conclusive evidence that fraud, force or duress did not take place. Restitution of industrial and transportation machinery and equipment should be deferred, however, so long as its retention is required for the safety of the occupation forces. In such cases the Supreme Commander for the Allied Powers should provide an explanation of reasons for retention and an estimated date of restoration. Special policies with respect to ships are stated below.

3. Steps should be taken to restore to Allied countries ships of all types and sizes found in Japanese waters which are identified as having been registered in an Allied country at the time of seizure or sinking by the Japanese or their agents, or at the time of acquisition by the Japanese or their agents by fraud, force or duress. The fact that payment was made should be disregarded unless there is conclusive evidence that fraud, force or duress did not take place. Within the limits of feasibility ships found in Japanese waters, whether seaworthy, sunk or damaged, should, on the request of the claimant country, be refitted, or salvaged, repaired and refitted, as a matter of priority in Japanese yards, to permit their return in a condition substantially similar to that at the time they came into Japanese hands. The foregoing costs should be borne by the Japanese Government.

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

5. The claimant government should take delivery at a point in Japan designated by the Supreme Commander for the Allied Powers except that at the discretion of the Supreme Commander and by agreement with the recipient country, (A) in the case of Allied vessels subject to restitution the Supreme Commander may

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make delivery at Western Pacific points outside Japan whenever delivery will thereby be facilitated, in which case any costs of supporting and repatriating ships' crews used for such delivery should not be borne by the recipient country unless it specifically agrees to do so; and (B) in the case of delivery of other items of looted property, unutilized outgoing shipping space of Japanese vessels being employed in the importation of goods or repatriation of Japanese from a restitution recipient country to Japan may be made available at the expense of the Japanese Government but at the risk of the recipient country to deliver such items at points outside Japan. Expenses incurred after delivery to the claimant government should be borne by that government, except that in the case of delivery within Japan, relevant transportation expenses within Japan and any dismantling, packing and repair necessary for proper transportation, including the necessary manpower, materials and organization, should be borne by Japan and be included in restitution. The recipient government should indemnify the Supreme Commander for the Allied Powers against all claims made in respect of the property received.

6. Restitution claims for property other than ships should be made by the government of the Allied country from whose territory the property claimed was removed; and restitution made to that government. In the case of ships, restitution claims should be filed by, and restitution made to, the government of the country whose flag the vessels were wearing or on whose register of shipping the vessels were borne at the time of sinking, seizure or acquisition as specified in paragraph 3.

7. No property, including cultural objects, should be included in Japanese exports which the Supreme Commander for the Allied Powers considers as probably subject to restitution. If items later found to be subject to restitution should be exported or liquidated equitable compensation should be made to that country to which the items exported or liquidated should have been restored.

8. After full opportunities have been given for inspection of objects known to have been looted the Supreme Commander for the Allied Powers should be authorized to liquidate property including stocks of gold, silver, other precious metals, precious stones and jewels but not cultural objects, known to have been looted but not identified pursuant to the terms of this paper. The proceeds of such liquidation shall form a secured fund to be entrusted to the care of SCAP, which may be used, in the discretion of SCAP, as a basis for credit for the purposes of the occupation. The initial value of the secured fund is to be preserved by SCAP or its successor authority. The Governments of Australia, China, France, India, Netherlands, Philippines, and U. K. should have a priority right to purchase items offered for liquidation by foreign exchange acceptable to SCAP up to but not exceeding their recognized national reparations percentage shares (adjusted to total 100%, applicable to this pool) of industrial assets available from within Japan. The secured fund should finally be distributed among the countries herein specified in accordance with the percentage mentioned above, payable in U. S. dollars, or, at the discretion of SCAP, in foreign exchange acceptable to the recipient countries concerned. The secured fund shall be distributed to the recipient countries not later than 1 October 1949.

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

10. The Far Eastern Commission should recommend to the Government of those countries within whose territories may be found objects looted or acquired by fraud, force or duress by the Japanese such as:

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

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

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

12. The Supreme Commander for the Allied Powers shall create an agency comprising one representative from each of the restitution and reparations teams in Japan of the eleven member countries of the Far Eastern Commission to advise on restitution matters. In addition, the Supreme Commander or his deputy should act as the non-voting chairman of the agency. It may meet at the call of the Supreme Commander or at the request of any member. The Supreme Commander should notify the United States Government of the views of the agency when his views conflict with those of the majority of the member countries.

13. In applying standards of identification with respect to claims for looted property, SCAP should observe the following principles:

a. In cases of doubt, the presumption should be in favor of the claimant country whenever permitted by the broadest application of law, equity and common sense.

b. In cases of doubt as to the adequacy of the evidence of ownership submitted to support a claim for an object known to have been looted, the Supreme Commander shall inform the other members of the advisory agency of the existence of the claim. The advisory agency, after examining the evidence, shall give its advice to the Supreme Commander as to whether the claim should be approved or the provisions of paragraph 8 above applied.

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14. No claims for the restitution of looted property should be lodged with SCAP after 8 months from the issuance of a directive to SCAP giving effect to this policy decision; provided that after such terminal date, claims may, with the concurrence of SCAP, be lodged for property known to have been looted but not yet identified pursuant to the provisions of this paper; and provided also that adequate opportunity be given to representatives of looted countries both before and after such terminal date to inspect property known to have been looted but not yet identified.

FEC-011/40FEC-RESTRICTEDFEC-011/4018 November 1947FAR EASTERN COMMISSIONRESTITUTION OF LOOTED PROPERTY(References: FEC-011/12, /21, /32 through /39)Note by the Secretary General

1. The enclosure, a proposed policy on the subject of restitution of looted property to supercede existing policy on this subject as set forth in FEC-011/12 (approved 18 July 1946) and subsequently amended by FEC-011/21 (approved 10 October 1946), was approved by the Steering Committee at its 83rd meeting on 18 November 1947 and is forwarded herewith to the Far Eastern Commission for consideration.

2. The Steering Committee approved the enclosure by a vote of 10 to 0 with the USSR abstaining.

3. The Soviet member stated that the Soviet delegation would insist upon the adoption of the following amendment to the end of paragraph 10 of the enclosure:

"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."

4. The Chinese member desires it recorded that the position of his government on this paper has been clearly expressed in the minutes of the 135th meeting of Committee No. 1.

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

NELSON T. JOHNSON
Secretary General

FEC-011/40

FEC-RESTRICTEDE N C L O S U R ERESTITUTION OF LOOTED PROPERTY

1. This policy supersedes FEC-011/12 (Restitution of Looted Property approved 18 July 1946, and transmitted to the Supreme Commander for the Allied Powers on 24 July 1946 as Directive Serial No. 57) as amended by FEC-011/21 (Restitution of Looted Property, approved 10 October 1946, and transmitted to the Supreme Commander for the Allied Powers on 16 October 1946 as Directive Serial No. 61), and also supersedes FEC-047/2 (Disposition of Captured Japanese Merchant Vessels, filed with the Far Eastern Commission on 24 May 1946 and transmitted to the Supreme Commander for the Allied Powers on 13 May 1946 as Directive Serial No. 44).

2. Immediate steps should be taken to restore to Allied countries property which is found in Japan and which is identified in accordance with this paper as having been located in an Allied country at or during the time of occupation of that country, and which was removed by fraud, force or duress by the Japanese or their agents. The fact that payment was made should be disregarded unless there is conclusive evidence that fraud, force or duress did not take place. Restitution of industrial and transportation machinery and equipment should be deferred, however, so long as its retention is required for the safety of the occupation forces. In such cases the Supreme Commander for the Allied Powers should provide an explanation of reasons for retention and an estimated date of restoration. Special policies with respect to ships are stated below.

3. Steps should be taken to restore to Allied countries ships of all types and sizes found in Japanese waters which are identified as having been registered in an Allied country at the time of seizure or sinking by the Japanese or their agents, or at the time of acquisition by the Japanese or their agents by fraud, force or duress. The fact that payment was made should be disregarded unless there is conclusive evidence that fraud, force or duress did not take place. Within the limits of feasibility ships found in Japanese waters whether seaworthy, sunk or damaged, should, on the request of the claimant country, be refitted, or salvaged, repaired and refitted, as a matter of priority in Japanese yards, to permit their return in a condition substantially similar to that at the time they came into Japanese hands. The foregoing costs should be borne by the Japanese Government.

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

5. The claimant government should take delivery at a point in Japan designated by the Supreme Commander for the Allied Powers except that at the discretion of the Supreme Commander and by agreement with the recipient country, (A) in the case of Allied vessels subject to restitution the Supreme Commander may

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make delivery at Western Pacific points outside Japan whenever delivery will thereby be facilitated, in which case any costs of supporting and repatriating ships' crews used for such delivery should not be borne by the recipient country unless it specifically agrees to do so; and (B) in the case of delivery of other items of looted property, unutilized outgoing shipping space of Japanese vessels being employed in the importation of goods or repatriation of Japanese from a restitution recipient country to Japan may be made available at the expense of the Japanese Government but at the risk of the recipient country to deliver such items at points outside Japan. Expenses incurred after delivery to the claimant government should be borne by that government, except that in the case of delivery within Japan, relevant transportation expenses within Japan and any dismantling, packing and repair necessary for proper transportation, including the necessary manpower, materials and organization, should be borne by Japan and be included in restitution. The recipient government should indemnify the Supreme Commander for the Allied Powers against all claims made in respect of the property received.

6. Restitution claims for property other than ships should be made by the government of the Allied country from whose territory the property claimed was removed; and restitution made to that government. In the case of ships, restitution claims should be filed by, and restitution made to, the government of the country whose flag the vessels were wearing or on whose register of shipping the vessels were borne at the time of sinking, seizure or acquisition as specified in paragraph 3.

7. No property, including cultural objects, should be included in Japanese exports which the Supreme Commander for the Allied Powers considers as probably subject to restitution. If items later found to be subject to restitution should be exported or liquidated equitable compensation should be made to that country to which the items exported or liquidated should have been restored.

8. After full opportunities have been given for inspection of objects known to have been looted the Supreme Commander for the Allied Powers should be authorized to liquidate property including stocks of gold, silver, other precious metals, precious stones and jewels but not cultural objects, known to have been looted but not identified pursuant to the terms of this paper. The proceeds of such liquidation shall form a secured fund to be entrusted to the care of SCAP, which may be used, in the discretion of SCAP, as a basis for credit for the purposes of the occupation. The initial value of the secured fund is to be preserved by SCAP or its successor authority. The Governments of Australia, China, France, India, Netherlands, Philippines, and U. K. should have a priority right to purchase items offered for liquidation by foreign exchange acceptable to SCAP up to but not exceeding their recognized national reparations percentage shares (adjusted to total 100%, applicable to this pool) of industrial assets available from within Japan. The secured fund should finally be distributed among the countries herein specified in accordance with the percentage mentioned above, payable in U. S. dollars, or, at the discretion of SCAP, in foreign exchange acceptable to the recipient countries concerned. The secured fund shall be distributed to the recipient countries not later than 1 October 1949.

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

10. The Far Eastern Commission should recommend to the Government of those countries within whose territories may be found objects looted or acquired by fraud, force or duress by the Japanese such as:

a. Industrial and transportation machinery and equipment;

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

c. Cultural objects;

d. Agricultural products and industrial raw materials;

e. Ships;

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

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

12. The Supreme Commander for the Allied Powers shall create an agency comprising one representative from each of the restitution and reparations teams in Japan of the eleven member countries of the Far Eastern Commission to advise on restitution matters. In addition, the Supreme Commander or his deputy should act as the non-voting chairman of the agency. It may meet at the call of the Supreme Commander or at the request of any member. The Supreme Commander should notify the United States Government of the views of the agency when his views conflict with those of the majority of the member countries.

13. In applying standards of identification with respect to claims for looted property, SCAP should observe the following principles:

a. In cases of doubt, the presumption should be in favor of the claimant country whenever permitted by the broadest application of law, equity and common sense.

b. In cases of doubt as to the adequacy of the evidence of ownership submitted to support a claim for an object known to have been looted, the Supreme Commander shall inform the other members of the advisory agency of the existence of the claim. The advisory agency, after examining the evidence, shall give its advice to the Supreme Commander as to whether the claim should be approved or the provisions of paragraph 8 above applied.

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14. No claims for the restitution of looted property should be lodged with SCAP after 8 months from the issuance of a directive to SCAP giving effect to this policy decision; provided that after such terminal date, claims may, with the concurrence of SCAP, be lodged for property known to have been looted but not yet identified pursuant to the provisions of this paper; and provided also that adequate opportunity be given to representatives of looted countries both before and after such terminal date to inspect property known to have been looted but not yet identified.

FEC-011/41FEC-RESTRICTEDFEC-011/4120 November 1947FAR EASTERN COMMISSIONRESTITUTION OF LOOTED PROPERTY
(References: FEC-011/12, /21, /32 through /40)Note by the Secretary General

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

NELSON T. JOHNSON
Secretary General

FEC-011/41

FEC-011/42FEC-RESTRICTEDFEC-011/423 December 1947FAR EASTERN COMMISSION

RESTITUTION OF LOOTED PROPERTY
(References: FEC-011/12, /21, 32 through 41)

Note by the Secretary General

1. The Ad Hoc Subcommittee of the whole Commission, to which the subject of shipping in FEC-011/40 (Restitution of Looted Property) was referred on 20 November 1947, has discussed this subject at two meetings and submits the following recommendation for the consideration of the Commission:

Paragraphs 10 and 11 of FEC-011/42 (Restitution of Looted Property) should be deleted from that paper and the subject matter contained therein should be reserved for consideration in a separate paper.

2. The Soviet Member opposed the recommendation contained in paragraph 1 above.

NELSON T. JOHNSON
Secretary General

FEC-011/42

FEC-011/43

FEC-RESTRICTEDFEC-011/438 January 1948FAR EASTERN COMMISSIONRESTITUTION OF LOOTED PROPERTY:
NETHERLANDS SUBSTITUTE(References: FEC-011/12, /21, /32
through /39; FEC-011/40)Note by the Secretary General

The enclosure, an amendment to FEC-011/40, Restitution of Looted Property, in the nature of a substitute for that proposal, was submitted by the Netherlands Representative at the eighty-fifth meeting, 8 January 1948, and is circulated herewith for the consideration of the Far Eastern Commission.

NELSON T. JOHNSON
Secretary General

FEC-011/43

FEC-RESTRICTEDE N C L O S U R ERESTITUTION OF LOOTED PROPERTY:
NETHERLANDS SUBSTITUTE PROPOSAL

1. This policy supersedes FEC-011/12 (Restitution of Looted Property approved 18 July 1946, and transmitted to the Supreme Commander for the Allied Powers on 24 July 1946 as Directive Serial No. 57) as amended by FEC-011/21 (Restitution of Looted Property, approved 10 October 1946, and transmitted to the Supreme Commander for the Allied Powers on 16 October 1946 as Directive Serial No. 61), and also supersedes FEC-047/2 (Disposition of Captured Japanese Merchant Vessels, filed with the Far Eastern Commission on 24 May 1946 and transmitted to the Supreme Commander for the Allied Powers on 13 May 1946 as Directive Serial No. 44).

2. Immediate steps should be taken to restore to Allied countries property which is found in Japan and which is identified in accordance with this paper as having been located in an Allied country at or during the time of occupation of that country, and which was removed by fraud, force or duress by the Japanese or their agents. The fact that payment was made should be disregarded unless there is conclusive evidence that fraud, force or duress did not take place. Restitution of industrial and transportation machinery and equipment should be deferred, however, so long as its retention is required for the safety of the occupation forces. In such cases the Supreme Commander for the Allied Powers should provide an explanation of reasons for retention and an estimated date of restoration. Special policies with respect to ships are stated below.

3. Steps should be taken to restore to Allied countries ships of all types and sizes found in Japanese waters which are identified as having been registered in an Allied country at the time of seizure or sinking by the Japanese or their agents, or at the time of acquisition by the Japanese or their agents by fraud, force or duress. The fact that payment was made should be disregarded unless there is conclusive evidence that fraud, force or duress did not take place. Within the limits of feasibility ships found in Japanese waters whether seaworthy, sunk or damaged, should, on the request of the claimant country, be refitted, or salvaged, repaired and refitted, as a matter of priority in Japanese yards, to permit their return in a condition substantially similar to that at the time they came into Japanese hands. The foregoing costs should be borne by the Japanese Government.

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

5. The claimant government should take delivery at a point in Japan designated by the Supreme Commander for the Allied Powers except that at the discretion of the Supreme Commander and by agreement with the recipient country, (A) in the case of Allied vessels subject to restitution the Supreme Commander may make delivery at Western Pacific points outside Japan whenever delivery will thereby be facilitated, in which case any costs of supporting

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and repatriating ships' crews used for such delivery should not be borne by the recipient country unless it specifically agrees to do so; and (B) in the case of delivery of other items of looted property, unutilized outgoing shipping space of Japanese vessels being employed in the importation of goods or repatriation of Japanese from a restitution recipient country to Japan may be made available at the expense of the Japanese Government but at the risk of the recipient country to deliver such items at points outside Japan. Expenses incurred after delivery to the claimant government should be borne by that government, except that in the case of delivery within Japan, relevant transportation expenses within Japan and any dismantling, packing and repair necessary for proper transportation, including the necessary manpower, materials and organization, should be borne by Japan and be included in restitution. The recipient government should indemnify the Supreme Commander for the Allied Powers against all claims made in respect of the property received.

6. Restitution claims for property other than ships should be made by the government of the Allied country from whose territory the property claimed was removed; and restitution made to that government. In the case of ships, restitution claims should be filed by, and restitution made to, the government of the country whose flag the vessels were wearing or on whose register of shipping the vessels were borne at the time of sinking, seizure or acquisition as specified in paragraph 3.

7. No property, including cultural objects, should be included in Japanese exports which the Supreme Commander for the Allied Powers considers as probably subject to restitution. If items later found to be subject to restitution should be exported or liquidated equitable compensation should be made to that country to which the items exported or liquidated should have been restored.

8. After full opportunities have been given for inspection of objects known to have been looted the Supreme Commander for the Allied Powers should be authorized to liquidate property including stocks of gold, silver, other precious metals, precious stones and jewels but not cultural objects, known to have been looted but not identified pursuant to the terms of this paper. The proceeds of such liquidation shall form a secured fund to be entrusted to the care of SCAP, which may be used, in the discretion of SCAP, as a basis for credit for the purposes of the occupation. The initial value of the secured fund is to be preserved by SCAP or its successor authority. The Governments of Australia, China, France, India, Netherlands, Philippines, and U. K. should have a priority right to purchase items offered for liquidation by foreign exchange acceptable to SCAP up to but not exceeding their recognized national reparations percentage shares (adjusted to total 100%, applicable to this pool) of industrial assets available from within Japan. The secured fund should finally be distributed among the countries herein specified in accordance with the percentage mentioned above, payable in U. S. dollars, or, at the discretion of SCAP, in foreign exchange acceptable to the recipient countries concerned. The secured fund shall be distributed to the recipient countries not later than 1 October 1949.

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

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10. The Supreme Commander for the Allied Powers shall create an agency comprising one representative from each of the restitution and reparations teams in Japan of the eleven member countries of the Far Eastern Commission to advise on restitution matters. In addition, the Supreme Commander or his deputy should act as the non-voting chairman of the agency. It may meet at the call of the Supreme Commander or at the request of any member. The Supreme Commander should notify the United States Government of the views of the agency when his views conflict with those of the majority of the member countries.

11. In applying standards of identification with respect to claims for looted property, SCAP should observe the following principles:

a. In cases of doubt, the presumption should be in favor of the claimant country whenever permitted by the broadest application of law, equity and common sense.

b. In cases of doubt as to the adequacy of the evidence of ownership submitted to support a claim for an object known to have been looted, the Supreme Commander shall inform the other members of the advisory agency of the existence of the claim. The advisory agency, after examining the evidence, shall give its advice to the Supreme Commander as to whether the claim should be approved or the provisions of paragraph 8 above applied.

12. No claims for the restitution of looted property should be lodged with SCAP after 8 months from the issuance of a directive to SCAP giving effect to this policy decision; provided that after such terminal date, claims may, with the concurrence of SCAP, be lodged for property known to have been looted but not yet identified pursuant to the provisions of this paper; and provided also that adequate opportunity be given to representatives of looted countries both before and after such terminal date to inspect property known to have been looted but not yet identified.

FEC-011/44FEC-RESTRICTEDFEC-011/4417 March 1948FAR EASTERN COMMISSIONRESTITUTION OF LOOTED PROPERTYNote by the Secretary General

The enclosure, a proposed policy on the subject of Restitution of Looted Property submitted by the Chinese Representative, is circulated herewith for the consideration of the Far Eastern Commission.

NELSON T. JOHNSON
Secretary General

FEC-011/44

FEC-RESTRICTEDE N C L O S U R ERESTITUTION OF LOOTED PROPERTY

1. This policy supersedes FEC-011/12 (Restitution of Looted Property approved 18 July 1946, and transmitted to the Supreme Commander for the Allied Powers on 24 July 1946 as Directive Serial No. 57) as amended by FEC-011/21 (Restitution of Looted Property, approved 10 October 1946, and transmitted to the Supreme Commander for the Allied Powers on 16 October 1946 as Directive Serial No. 61), and also supersedes FEC-047/2 (Disposition of Captured Japanese Merchant Vessels, filed with the Far Eastern Commission on 24 May 1946, and transmitted to the Supreme Commander for the Allied Powers on 13 May 1946 as Directive Serial No. 44).

2. Immediate steps should be taken to restore to Allied countries property which is found in Japan and which is identified in accordance with this paper as having been located in an Allied country at or during the time of occupation of that country, and which was removed by fraud, force or duress by the Japanese or their agents. The fact that payment was made should be disregarded unless there is conclusive evidence that fraud, force or duress did not take place. Restitution of industrial and transportation machinery and equipment should be deferred, however, so long as its retention is required for the safety of the occupation forces. In such cases the Supreme Commander for the Allied Powers should provide an explanation of reasons for retention and an estimated date of restoration. Special policies with respect to ships are stated below.

3. Steps should be taken to restore to Allied countries ships of all types and sizes found in Japanese waters which are identified as having been registered in an Allied country at the time of seizure or sinking by the Japanese or their agents, or at the time of acquisition by the Japanese or their agents by fraud, force or duress. The fact that payment was made should be disregarded unless there is conclusive evidence that fraud, force or duress did not take place. Within the limits of feasibility ships found in Japanese waters whether seaworthy, sunk or damaged, should, on the request of the claimant country, be refitted, or salvaged, repaired and refitted, as a matter of priority in Japanese yards, to permit their return in a condition substantially similar to that at the time they came into Japanese hands. The foregoing costs should be borne by the Japanese Government.

As regards ships sunk or damaged in non-Japanese waters, the necessary costs for their salvage, repairing and refitting should be borne by the Japanese Government but not by the Occupying Powers.

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

5. The claimant government should take delivery at a point in Japan designated by the Supreme Commander for the Allied Powers except that at the discretion of the Supreme Commander and by agreement with the recipient country, (A) in the case of Allied vessels subject to restitution the Supreme Commander may

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make delivery at Western Pacific points outside Japan whenever delivery will thereby be facilitated, in which case any costs of supporting and repatriating ships' crews used for such delivery should not be borne by the recipient country unless it specifically agrees to do so; and (B) in the case of delivery of other items of looted property, unutilized outgoing shipping space of Japanese vessels being employed in the importation of goods or repatriation of Japanese from a restitution recipient country to Japan may be made available at the expense of the Japanese Government but at the risk of the recipient country to deliver such items at points outside Japan. Expenses incurred after delivery to the claimant government should be borne by that government, except that in the case of delivery within Japan, relevant transportation expenses within Japan and any dismantling, packing and repair necessary for proper transportation, including the necessary manpower, materials and organization, should be borne by Japan and be included in restitution. The recipient government should indemnify the Supreme Commander for the Allied Powers against all claims made in respect of the property received.

6. Restitution claims for property other than ships should be made by the government of the Allied country from whose territory the property claimed was removed; and restitution made to that government. In the case of ships, restitution claims should be filed by, and restitution made to, the government of the country whose flag the vessels were wearing or on whose register of shipping the vessels were borne at the time of sinking, seizure or acquisition as specified in paragraph 3.

7. No property, including cultural objects, should be included in Japanese exports which the Supreme Commander for the Allied Powers considers as probably subject to restitution. If items later found to be subject to restitution should be exported or liquidated equitable compensation should be made to that country to which the items exported or liquidated should have been restored.

8. After full opportunities have been given for inspection of objects known to have been looted the Supreme Commander for the Allied Powers should be authorized to liquidate property including stocks of gold, silver, other precious metals, precious stones and jewels but not cultural objects, known to have been looted but not identified pursuant to the terms of this paper. The proceeds of such liquidation shall form a secured fund to be entrusted to the care of SCAP, which may be used, in the discretion of SCAP, as a basis for credit for the purposes of the occupation. The initial value of the secured fund is to be preserved by SCAP or its successor authority. The Governments of Australia, China, France, India, Netherlands, Philippines, and U. K. should have a priority right to purchase items offered for liquidation by foreign exchange acceptable to SCAP up to but not exceeding their recognized national reparations percentage shares (adjusted to total 100%, applicable to this pool) of industrial assets available from within Japan. The secured fund should finally be distributed among the countries herein specified in accordance with the percentage mentioned above, payable in U. S. dollars, or, at the discretion of SCAP, in foreign exchange acceptable to the recipient countries concerned. The secured fund shall be distributed to the recipient countries not later than 1 October 1949.

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

10. The Far Eastern Commission should recommend to the Government of those countries within whose territories may be found objects looted or acquired by fraud, force or duress by the Japanese such as:

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

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

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

12. The Supreme Commander for the Allied Powers shall create an agency comprising one representative from each of the restitution and reparations teams in Japan of the eleven member countries of the Far Eastern Commission to advise on restitution matters. In addition, the Supreme Commander or his deputy should act as the non-voting chairman of the agency. It may meet at the call of the Supreme Commander or at the request of any member. The Supreme Commander should notify the United States Government of the views of the agency when his views conflict with those of the majority of the member countries.

13. In applying standards of identification with respect to claims for looted property, SCAP should observe the following principles:

- a. In cases of doubt, the presumption should be in favor of the claimant country whenever permitted by the broadest application of law, equity and common sense.
- b. In cases of doubt as to the adequacy of the evidence of ownership submitted to support a claim for an object known to have been looted, the Supreme Commander shall inform the other members of the advisory agency of the existence of the claim. The advisory agency, after examining the evidence, shall give its advice to the Supreme Commander as to whether the claim should be approved or the provisions of paragraph 8 above applied.

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14. No claims for the restitution of looted property should be lodged with SCAP after 8 months from the issuance of a directive to SCAP giving effect to this policy decision; provided that after such terminal date, claims may, with the concurrence of SCAP, be lodged for property known to have been looted but not yet identified pursuant to the provisions of this paper; and provided also that adequate opportunity be given to representatives of looted countries both before and after such terminal date to inspect property known to have been looted but not yet identified.

FEC-011/45FEC-RESTRICTEDFEC-011/4526 March 1948FAR EASTERN COMMISSIONCOMMITTEE NO. 1: REPARATIONSRESTITUTION OF LOOTED PROPERTYNote by the Secretary General

1. The Far Eastern Commission, at its 99th meeting on 25 March, referred FEC-011/44, a Chinese policy proposal on the subject of restitution of looted property, to COMMITTEE NO. 1: REPARATIONS for consideration.

2. The attention of members of the Committee is invited to the fact that FEC-011/44 differs from FEC-011/40, a document previously discussed and approved by the Committee, only in the addition of the second subparagraph of paragraph 3.

NELSON T. JOHNSON
Secretary General

FEC-011/45

FEC-011/46

FEC-RESTRICTED

FEC-011/46

17 June 1948

FAR EASTERN COMMISSION

RESTITUTION OF LOOTED PROPERTY
(Reference: FEC-011/44)

Note by the Secretary General

1. The enclosure, a proposed policy on the subject of restitution of looted property approved by Committee No. 1: Reparations at its 163rd meeting on 16 June 1948, is forwarded herewith for the consideration of the STEERING COMMITTEE.

2. In the vote to approve the paper, the Australian, Chinese and French Members voted in favor of the paper; the United Kingdom and U. S. Members voted against the paper; the remaining Members abstained.

3. FEC-011/44 was referred to Committee No. 1 by the Far Eastern Commission at its 99th meeting on 25 March 1948.

SAMUEL S. STRATTON
Acting Secretary General

FEC-011/46

FEC-RESTRICTEDE N C L O S U R ERESTITUTION OF LOOTED PROPERTY

1. This policy supersedes FEC-011/12 (Restitution of Looted Property approved 18 July 1946, and transmitted to the Supreme Commander for the Allied Powers on 24 July 1946 as Directive Serial No. 57) as amended by FEC-011/21 (Restitution of Looted Property, approved 10 October 1946, and transmitted to the Supreme Commander for the Allied Powers on 16 October 1946 as Directive Serial No. 61), and also supersedes FEC-047/2 (Disposition of Captured Japanese Merchant Vessels, filed with the Far Eastern Commission on 24 May 1946, and transmitted to the Supreme Commander for the Allied Powers on 13 May 1946 as Directive Serial No. 44).

2. Immediate steps should be taken to restore to Allied countries property which is found in Japan and which is identified in accordance with this paper as having been located in an Allied country at or during the time of occupation of that country, and which was removed by fraud, force or duress by the Japanese or their agents. The fact that payment was made should be disregarded unless there is conclusive evidence that fraud, force or duress did not take place. Restitution of industrial and transportation machinery and equipment should be deferred, however, so long as its retention is required for the safety of the occupation forces. In such cases the Supreme Commander for the Allied Powers should provide an explanation of reasons for retention and an estimated date of restoration. Special policies with respect to ships are stated below.

3. Steps should be taken to restore to Allied countries ships of all types and sizes found in Japanese waters which are identified as having been registered in an Allied country at the time of seizure or sinking by the Japanese or their agents, or at the time of acquisition by the Japanese or their agents by fraud, force or duress. The fact that payment was made should be disregarded unless there is conclusive evidence that fraud, force or duress did not take place. Within the limits of feasibility ships found in Japanese waters whether seaworthy, sunk or damaged, should, on the request of the claimant country, be refitted, or salvaged, repaired and refitted, as a matter of priority in Japanese yards, to permit their return in a condition substantially similar to that at the time they came into Japanese hands. The foregoing costs should be borne by the Japanese Government.

As regards ships sunk or damaged in non-Japanese waters, the necessary costs for their salvage, repairing and refitting should be borne by the Japanese Government but not by the Occupying Powers.

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

5. The claimant government should take delivery at a point in Japan designated by the Supreme Commander for the Allied Powers except that at the discretion of the Supreme Commander and by agreement with the recipient country, (A) in the case of Allied vessels subject to restitution the Supreme Commander may

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make delivery at Western Pacific points outside Japan whenever delivery will thereby be facilitated, in which case any costs of supporting and repatriating ships' crews used for such delivery should not be borne by the recipient country unless it specifically agrees to do so; and (B) in the case of delivery of other items of looted property, unutilized outgoing shipping space of Japanese vessels being employed in the importation of goods or repatriation of Japanese from a restitution recipient country to Japan may be made available at the expense of the Japanese Government but at the risk of the recipient country to deliver such items at points outside Japan. Expenses incurred after delivery to the claimant government should be borne by that government, except that in the case of delivery within Japan, relevant transportation expenses within Japan and any dismantling, packing and repair necessary for proper transportation, including the necessary manpower, materials and organization, should be borne by Japan and be included in restitution. The recipient government should indemnify the Supreme Commander for the Allied Powers against all claims made in respect of the property received.

6. Restitution claims for property other than ships should be made by the government of the Allied country from whose territory the property claimed was removed; and restitution made to that government. In the case of ships, restitution claims should be filed by, and restitution made to, the government of the country whose flag the vessels were wearing or on whose register of shipping the vessels were borne at the time of sinking, seizure or acquisition as specified in paragraph 3.

7. No property, including cultural objects, should be included in Japanese exports which the Supreme Commander for the Allied Powers considers as probably subject to restitution. If items later found to be subject to restitution should be exported or liquidated equitable compensation should be made to that country to which the items exported or liquidated should have been restored.

8. After full opportunities have been given for inspection of objects known to have been looted the Supreme Commander for the Allied Powers should be authorized to liquidate property including stocks of gold, silver, other precious metals, precious stones and jewels but not cultural objects, known to have been looted but not identified pursuant to the terms of this paper. The proceeds of such liquidation shall form a secured fund to be entrusted to the care of SCAP, which may be used, in the discretion of SCAP, as a basis for credit for the purposes of the occupation. The initial value of the secured fund is to be preserved by SCAP or its successor authority. The Governments of Australia, China, France, India, Netherlands, Philippines, and U. K. should have a priority right to purchase items offered for liquidation by foreign exchange acceptable to SCAP up to but not exceeding their recognized national reparations percentage shares (adjusted to total 100%, applicable to this pool) of industrial assets available from within Japan. The secured fund should finally be distributed among the countries herein specified in accordance with the percentage mentioned above, payable in U. S. dollars, or, at the discretion of SCAP, in foreign exchange acceptable to the recipient countries concerned. The secured fund shall be distributed to the recipient countries not later than 1 October 1949.

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

10. The Far Eastern Commission should recommend to the Government of those countries within whose territories may be found objects looted or acquired by fraud, force or duress by the Japanese such as:

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

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

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

12. The Supreme Commander for the Allied Powers shall create an agency comprising one representative from each of the restitution and reparations teams in Japan of the eleven member countries of the Far Eastern Commission to advise on restitution matters. In addition, the Supreme Commander or his deputy should act as the non-voting chairman of the agency. It may meet at the call of the Supreme Commander or at the request of any member. The Supreme Commander should notify the United States Government of the views of the agency when his views conflict with those of the majority of the member countries.

13. In applying standards of identification with respect to claims for looted property, SCAP should observe the following principles:

a. In cases of doubt, the presumption should be in favor of the claimant country whenever permitted by the broadest application of law, equity and common sense.

b. In cases of doubt as to the adequacy of the evidence of ownership submitted to support a claim for an object known to have been looted, the Supreme Commander shall inform the other members of the advisory agency of the existence of the claim. The advisory agency, after examining the evidence, shall give its advice to the Supreme Commander as to whether the claim should be approved or the provisions of paragraph 8 above applied.

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14. No claims for the restitution of looted property should be lodged with SCAP after 8 months from the issuance of a directive to SCAP giving effect to this policy decision; provided that after such terminal date, claims may, with the concurrence of SCAP, be lodged for property known to have been looted but not yet identified pursuant to the provisions of this paper; and provided also that adequate opportunity be given to representatives of looted countries both before and after such terminal date to inspect property known to have been looted but not yet identified.

FEC-011/47FEC-RESTRICTEDFEC-011/4729 June 1948FAR EASTERN COMMISSIONRESTITUTION OF LOOTED PROPERTY
Reference to Ad Hoc SubcommitteeNote by the Secretary General

The Steering Committee, at its 111th meeting, 29 June 1948, referred FEC-011/46 to an ad hoc subcommittee of the whole Steering Committee under the Chairmanship of the Chinese Member. This action was taken by a vote of 7 in favor, with 4 abstentions (Netherlands, Philippines, U.S.S.R., U. K.).

SAMUEL S. STRATTON
Acting Secretary General

FEC-011/47

FEC-011/48FEC-RESTRICTEDFEC-011/4822 July 1948FAR EASTERN COMMISSIONRESTITUTION OF LOOTED PROPERTY
Report of Ad Hoc Subcommittee
(Reference: FEC-011/46)Note by the Secretary General

1. Enclosure "A", a report and recommendations by the ad hoc Subcommittee on Restitution of Looted Property established by the Steering Committee on 29 June 1948, is forwarded herewith for the consideration of the STEERING COMMITTEE.

2. Enclosure "B" contains a working paper of the ad hoc Subcommittee to be referred to Committee No. 1: Reparations if the Steering Committee accepts the recommendations contained in Enclosure "A".

NELSON T. JOHNSON
Secretary General

FEC-011/48

FEC-RESTRICTEDENCLOSURE "A"RESTITUTION OF LOOTED PROPERTY
Report of Ad Hoc Subcommittee

The ad hoc Subcommittee on Restitution of Looted Property established on 29 June 1948 recommends to the Steering Committee that subparagraph 2 of paragraph 3 of FEC-011/46 be referred to Committee No. 1: Reparations for study with a view to the formulation of a separate policy on the subject contained therein, and that the Subcommittee working paper contained in Enclosure "B" of this document also be referred to Committee No. 1 for information or, if the Committee desires, for consideration. The Subcommittee further recommends that FEC-011/46 without sub-paragraph 2 of paragraph 3 be approved by the Steering Committee and forwarded to the Commission.

These recommendations are made with the understanding that each delegation be invited to express at a suitable time its views on paragraph 10 of FEC-011/46.

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ENCLOSURE "B"

WORKING PAPER OF AD HOC SUBCOMMITTEE ON
RESTITUTION OF LOOTED PROPERTY

9 July 1948

The following is a working paper of the Ad Hoc Subcommittee on Restitution of Looted Property which was discussed but not approved by the Subcommittee.

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

FEC-011/49FEC-RESTRICTEDFEC-011/4927 July 1948FAR EASTERN COMMISSIONRESTITUTION OF LOOTED PROPERTY
Policy Decision as Reported from the Steering Committee
(References: FEC-011/48, /46)Note by the Secretary General

1. The enclosure, a proposed policy decision on the subject of the restitution of looted property approved by the Steering Committee at its 115th meeting on 27 July, is forwarded herewith for the consideration of the FAR EASTERN COMMISSION.
2. Both the Soviet and United States members abstained from voting on the enclosure in the Steering Committee.
3. It was the understanding of the Steering Committee that "at a suitable time" representatives would be invited to express their views on paragraph 10 of the enclosure.
4. In accordance with paragraph 3 of FEC-067/3, the Steering Committee recommends that the enclosed policy decision, if adopted, be released to the press in the normal procedure.

NELSON T. JOHNSON
Secretary General

FEC-011/49

FEC-RESTRICTEDENCLOSURERESTITUTION OF LOOTED PROPERTY

1. This policy supersedes FEC-011/12 (Restitution of Looted Property approved 18 July 1946, and transmitted to the Supreme Commander for the Allied Powers on 24 July 1946 as Directive Serial No. 57) as amended by FEC-011/21 (Restitution of Looted Property, approved 10 October 1946, and transmitted to the Supreme Commander for the Allied Powers on 16 October 1946 as Directive Serial No. 61), and also supersedes FEC-047/2 (Disposition of Captured Japanese Merchant Vessels, filed with the Far Eastern Commission on 24 May 1946, and transmitted to the Supreme Commander for the Allied Powers on 13 May 1946 as Directive Serial No. 44).

2. Immediate steps should be taken to restore to Allied countries property which is found in Japan and which is identified in accordance with this paper as having been located in an Allied country at or during the time of occupation of that country, and which was removed by fraud, force or duress by the Japanese or their agents. The fact that payment was made should be disregarded unless there is conclusive evidence that fraud, force or duress did not take place. Restitution of industrial and transportation machinery and equipment should be deferred, however, so long as its retention is required for the safety of the occupation forces. In such cases the Supreme Commander for the Allied Powers should provide an explanation of reasons for retention and an estimated date of restoration. Special policies with respect to ships are stated below.

3. Steps should be taken to restore to Allied countries ships of all types and sizes found in Japanese waters which are identified as having been registered in an Allied country at the time of seizure or sinking by the Japanese or their agents, or at the time of acquisition by the Japanese or their agents by fraud, force or duress. The fact that payment was made should be disregarded unless there is conclusive evidence that fraud, force or duress did not take place. Within the limits of feasibility ships found in Japanese waters whether seaworthy, sunk or damaged, should, on the request of the claimant country, be refitted, or salvaged, repaired and refitted, as a matter of priority in Japanese yards, to permit their return in a condition substantially similar to that at the time they came into Japanese hands. The foregoing costs should be borne by the Japanese Government.

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

5. The claimant government should take delivery at a point in Japan designated by the Supreme Commander for the Allied Powers except that at the discretion of the Supreme Commander and by agreement with the recipient country, (A) in the case of Allied vessels subject to restitution the Supreme Commander may

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make delivery at Western Pacific points outside Japan whenever delivery will thereby be facilitated, in which case any costs of supporting and repatriating ships' crews used for such delivery should not be borne by the recipient country unless it specifically agrees to do so; and (B) in the case of delivery of other items of looted property, unutilized outgoing shipping space of Japanese vessels being employed in the importation of goods or repatriation of Japanese from a restitution recipient country to Japan may be made available at the expense of the Japanese Government but at the risk of the recipient country to deliver such items at points outside Japan. Expenses incurred after delivery to the claimant government should be borne by that government, except that in the case of delivery within Japan, relevant transportation expenses within Japan and any dismantling, packing and repair necessary for proper transportation, including the necessary manpower, materials and organization, should be borne by Japan and be included in restitution. The recipient government should indemnify the Supreme Commander for the Allied Powers against all claims made in respect of the property received.

6. Restitution claims for property other than ships should be made by the government of the Allied country from whose territory the property claimed was removed; and restitution made to that government. In the case of ships, restitution claims should be filed by, and restitution made to, the government of the country whose flag the vessels were wearing or on whose register of shipping the vessels were borne at the time of sinking, seizure or acquisition as specified in paragraph 3.

7. No property, including cultural objects, should be included in Japanese exports which the Supreme Commander for the Allied Powers considers as probably subject to restitution. If items later found to be subject to restitution should be exported or liquidated equitable compensation should be made to that country to which the items exported or liquidated should have been restored.

8. After full opportunities have been given for inspection of objects known to have been looted the Supreme Commander for the Allied Powers should be authorized to liquidate property including stocks of gold, silver, other precious metals, precious stones and jewels but not cultural objects, known to have been looted but not identified pursuant to the terms of this paper. The proceeds of such liquidation shall form a secured fund to be entrusted to the care of SCAP, which may be used, in the discretion of SCAP, as a basis for credit for the purposes of the occupation. The initial value of the secured fund is to be preserved by SCAP or its successor authority. The Governments of Australia, China, France, India, Netherlands, Philippines, and U. K. should have a priority right to purchase items offered for liquidation by foreign exchange acceptable to SCAP up to but not exceeding their recognized national reparations percentage shares (adjusted to total 100%, applicable to this pool) of industrial assets available from within Japan. The secured fund should finally be distributed among the countries herein specified in accordance with the percentage mentioned above, payable in U. S. dollars, or, at the discretion of SCAP, in foreign exchange acceptable to the recipient countries concerned. The secured fund shall be distributed to the recipient countries not later than 1 October 1949.

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

10. The Far Eastern Commission should recommend to the Government of those countries within whose territories may be found objects looted or acquired by fraud, force or duress by the Japanese such as:

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

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

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

12. The Supreme Commander for the Allied Powers shall create an agency comprising one representative from each of the restitution and reparations teams in Japan of the eleven member countries of the Far Eastern Commission to advise on restitution matters. In addition, the Supreme Commander or his deputy should act as the non-voting chairman of the agency. It may meet at the call of the Supreme Commander or at the request of any member. The Supreme Commander should notify the United States Government of the views of the agency when his views conflict with those of the majority of the member countries.

13. In applying standards of identification with respect to claims for looted property, the Supreme Commander for the Allied Powers should observe the following principles:

a. In cases of doubt, the presumption should be in favor of the claimant country whenever permitted by the broadest application of law, equity and common sense.

b. In cases of doubt as to the adequacy of the evidence of ownership submitted to support a claim for an object known to have been looted, the Supreme Commander shall inform the other members of the advisory agency of the existence of the claim. The advisory agency, after examining the evidence, shall give its advice to the Supreme Commander as to whether the claim should be approved or the provisions of paragraph 8 above applied.

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14. No claims for the restitution of looted property should be lodged with the Supreme Commander for the Allied Powers after 8 months from the issuance of a directive to the Supreme Commander for the Allied Powers giving effect to this policy decision; provided that after such terminal date, claims may, with the concurrence of the Supreme Commander for the Allied Powers, be lodged for property known to have been looted but not yet identified pursuant to the provisions of this paper; and provided also that adequate opportunity be given to representatives of looted countries both before and after such terminal date to inspect property known to have been looted but not yet identified.

FEC-011/50FEC-RESTRICTEDFEC-011/5027 July 1948FAR EASTERN COMMISSION

RESTITUTION OF LOOTED PROPERTY
Reference of Looted Ships Issue to Committee No. 1
(References: FEC-011/48, /46)

Note by the Secretary General

1. The Steering Committee at its 115th meeting on 27 July agreed to refer the following subparagraph of paragraph 3 of FEC-011/46 to Committee No. 1 "for study with a view to the formulation of a separate policy on the subject contained therein":

"As regards ships sunk or damaged in non-Japanese waters, the necessary costs for their salvage, repairing and refitting should be borne by the Japanese Government but not by the Occupying Powers."

2. The Steering Committee also agreed to refer the enclosed "unofficial working paper" of the Subcommittee "to Committee No. 1 for information, or, if the Committee desires, for consideration."

3. The wording in paragraph 1 above, and the Subcommittee's unofficial working paper in the enclosure are accordingly referred hereby to COMMITTEE NO. 1: REPARATIONS as instructed.

NELSON T. JOHNSON
Secretary General

FEC-011/50

FEC-RESTRICTEDE N C L O S U R EWORKING PAPER OF AD HOC SUBCOMMITTEE ON
RESTITUTION OF LOOTED PROPERTY

The following is a working paper of the Ad Hoc Subcommittee on Restitution of Looted Property which was discussed but not approved by the Subcommittee.

PROPOSED RECOMMENDATIONS ON THE SUBJECT OF SHIPPING

9 July 1948

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

FEC-011/51*Unclassified per ⁴FEC-*
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29 July 1948FAR EASTERN COMMISSIONRESTITUTION OF LOOTED PROPERTY
(References: FEC-011 Series)Note by the Secretary General

1. Enclosure "A", a policy decision relative to the restitution of looted property, was approved by the Far Eastern Commission at its 117th meeting, 29 July 1948.
2. The letter of transmittal of the Secretary General forwarding this decision on behalf of the Far Eastern Commission to the Secretary of State of the United States Government in accordance with the Terms of Reference, is circulated herewith as Enclosure "B".
3. The statement of the United States member referred to in the letter of transmittal is circulated as Enclosure "C".

NELSON T. JOHNSON
Secretary General

FEC-011/51
P-50

FEC-RESTRICTEDENCLOSURE "A"RESTITUTION OF LOOTED PROPERTY

1. This policy supersedes FEC-011/12 (Restitution of Looted Property approved 18 July 1946, and transmitted to the Supreme Commander for the Allied Powers on 24 July 1946 as Directive Serial No. 57) as amended by FEC-011/21 (Restitution of Looted Property, approved 10 October 1946, and transmitted to the Supreme Commander for the Allied Powers on 16 October 1946 as Directive Serial No. 61), and also supersedes FEC-047/2 (Disposition of Captured Japanese Merchant Vessels, filed with the Far Eastern Commission on 24 May 1946, and transmitted to the Supreme Commander for the Allied Powers on 13 May 1946 as Directive Serial No. 44).

2. Immediate steps should be taken to restore to Allied countries property which is found in Japan and which is identified in accordance with this paper as having been located in an Allied country at or during the time of occupation of that country, and which was removed by fraud, force or duress by the Japanese or their agents. The fact that payment was made should be disregarded unless there is conclusive evidence that fraud, force or duress did not take place. Restitution of industrial and transportation machinery and equipment should be deferred, however, so long as its retention is required for the safety of the occupation forces. In such cases the Supreme Commander for the Allied Powers should provide an explanation of reasons for retention and an estimated date of restoration. Special policies with respect to ships are stated below.

3. Steps should be taken to restore to Allied countries ships of all types and sizes found in Japanese waters which are identified as having been registered in an Allied country at the time of seizure or sinking by the Japanese or their agents, or at the time of acquisition by the Japanese or their agents by fraud, force or duress. The fact that payment was made should be disregarded unless there is conclusive evidence that fraud, force or duress did not take place. Within the limits of feasibility ships found in Japanese waters whether seaworthy, sunk or damaged, should, on the request of the claimant country, be refitted, or salvaged, repaired and refitted, as a matter of priority in Japanese yards, to permit their return in a condition substantially similar to that at the time they came into Japanese hands. The foregoing costs should be borne by the Japanese Government.

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

5. The claimant government should take delivery at a point in Japan designated by the Supreme Commander for the Allied Powers except that at the discretion of the Supreme Commander and by agreement with the recipient country, (A) in the case of Allied vessels subject to restitution the Supreme Commander may make delivery at Western Pacific points outside Japan whenever delivery will thereby be facilitated, in which case any costs of supporting and repatriating ships' crews used for such delivery should not be borne by the recipient country unless it specifically agrees to do so; and (B) in the case of delivery of other items of looted property, unutilized outgoing shipping space of Japanese vessels being employed

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in the importation of goods or repatriation of Japanese from a restitution recipient country to Japan may be made available at the expense of the Japanese Government but at the risk of the recipient country to deliver such items at points outside Japan. Expenses incurred after delivery to the claimant government should be borne by that government, except that in the case of delivery within Japan, relevant transportation expenses within Japan and any dismantling, packing and repair necessary for proper transportation, including the necessary manpower, materials and organization, should be borne by Japan and be included in restitution. The recipient governments should indemnify the Supreme Commander for the Allied Powers against all claims made in respect of the property received.

6. Restitution claims for property other than ships should be made by the government of the Allied country from whose territory the property claimed was removed; and restitution made to that government. In the case of ships, restitution claims should be filed by, and restitution made to, the government of the country whose flag the vessels were wearing or on whose register of shipping the vessels were borne at the time of sinking, seizure or acquisition as specified in paragraph 3.

7. No property, including cultural objects, should be included in Japanese exports which the Supreme Commander for the Allied Powers considers as probably subject to restitution. If items later found to be subject to restitution should be exported or liquidated equitable compensation should be made to that country to which the items exported or liquidated should have been restored.

8. After full opportunities have been given for inspection of objects known to have been looted the Supreme Commander for the Allied Powers should be authorized to liquidate property including stocks of gold, silver, other precious metals, precious stones and jewels but not cultural objects, known to have been looted but not identified pursuant to the terms of this paper. The proceeds of such liquidation shall form a secured fund to be entrusted to the care of the Supreme Commander for the Allied Powers, which may be used, in the discretion of the Supreme Commander for the Allied Powers, as a basis for credit for the purposes of the occupation. The initial value of the secured fund is to be preserved by the Supreme Commander for the Allied Powers or his successor authority. The Governments of Australia, China, France, India, the Netherlands, the Philippines, and the United Kingdom should have a priority right to purchase items offered for liquidation by foreign exchange acceptable to the Supreme Commander for the Allied Powers up to but not exceeding their recognized national reparations percentage shares (adjusted to total 100%, applicable to this pool) of industrial assets available from within Japan. The secured fund should finally be distributed among the countries herein specified in accordance with the percentage mentioned above, payable in United States dollars, or, at the discretion of the Supreme Commander for the Allied Powers, in foreign exchange acceptable to the recipient countries concerned. The secured fund shall be distributed to the recipient countries not later than 1 October 1949.

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

10. The Far Eastern Commission should recommend to the Government of those countries within whose territories may be found objects looted or acquired by fraud, force or duress by the Japanese such as:

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

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

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

12. The Supreme Commander for the Allied Powers shall create an agency comprising one representative from each of the restitution and reparations teams in Japan of the eleven member countries of the Far Eastern Commission to advise on restitution matters. In addition, the Supreme Commander or his deputy should act as the non-voting chairman of the agency. It may meet at the call of the Supreme Commander or at the request of any member. The Supreme Commander should notify the United States Government of the views of the agency when his views conflict with those of the majority of the member countries.

13. In applying standards of identification with respect to claims for looted property, the Supreme Commander for the Allied Powers should observe the following principles:

a. In cases of doubt, the presumption should be in favor of the claimant country whenever permitted by the broadest application of law, equity and common sense.

b. In cases of doubt as to the adequacy of the evidence of ownership submitted to support a claim for an object known to have been looted, the Supreme Commander shall inform the other members of the advisory agency of the existence of the claim. The advisory agency, after examining the evidence, shall give its advice to the Supreme Commander as to whether the claim should be approved or the provisions of paragraph 8 above applied.

14. No claims for the restitution of looted property should be lodged with the Supreme Commander for the Allied Powers after eight months from the issuance of a directive to the Supreme Commander for the Allied Powers giving effect to this policy decision; provided that after such terminal date, claims may, with the concurrence of the Supreme Commander for the Allied Powers, be lodged for property known to have been looted but not yet identified pursuant to the provisions of this paper; and provided also that adequate opportunity be given to representatives of looted countries both before and after such terminal date to inspect property known to have been looted but not yet identified.

FEC-RESTRICTEDENCLOSURE "B"LETTER OF TRANSMITTAL

29 July 1948

My dear Mr. Secretary:

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

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

At the one hundred-seventeenth meeting of the Far Eastern Commission held at 2516 Massachusetts Avenue, Northwest, Washington, D. C., on 29 July 1948, the enclosed policy decision relative to Restitution of Looted Property was approved. The Soviet Representative abstained from voting.

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

In approving the enclosed policy, which has been given the Commission designation FEC-011/51, the United States Member submitted for the record a formal statement, a copy of which is enclosed, at his request, for your information.

The Commission agreed that the text of the enclosed policy should be released to the press after the appropriate directive has been received by the Supreme Commander. In order that we may make our arrangements for release as expeditiously as possible, it would be appreciated if you could notify me when the United States directive has reached Tokyo.

Sincerely yours,

Enclosure

Nelson T. Johnson
Secretary GeneralThe Honorable George C. Marshall
Secretary of State
Washington, D. C.

Enclosure "B"

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FEC-RESTRICTEDENCLOSURE "C"STATEMENT BY UNITED STATES REPRESENTATIVE
ON FEC-011/51 AT 117TH FEC MEETING, 29 JULY 1948

SCAP has advised the United States Government that upon examination of stocks of gold and silver now in Japan and pertinent records, he has made a determination that certain gold and silver is of clearly established Japanese ownership. He has placed this gold and silver in accordance with the terms of FEC-032/26, para. 16c in a fund created as a means of acquiring foreign exchange to aid in financing Japanese production programs. The United States Government has reviewed and considers proper SCAP's finding and action in this matter. It is therefore the viewpoint of the United States Government that the provisions of FEC-011/51, which deal with restitution of looted property found in Japan, will not affect in any way this gold and silver which SCAP has determined to be Japanese owned, or any gold and silver which SCAP may in the future in accordance with the terms of FEC-011/51 find to be Japanese owned, or the use of such gold and silver in connection with credits under the terms of FEC-032/26, para. 16c.

Enclosure "C"

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FEC-011/52*Unclassified*
per FEC-011/68
4/24/51
FEC-RESTRICTEDFEC-011/528 September 1948FAR EASTERN COMMISSIONRESTITUTION OF LOOTED PROPERTY
(Reference: FEC-011/51)Note by the Secretary General

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

2. This directive was forwarded to the Supreme Commander on 4 August 1948.

3. A certified copy of this directive has been filed with the Commission in accordance with Section III, paragraph 4, of the Terms of Reference.

NELSON T. JOHNSON
Secretary General

FEC-011/52

FEC-RESTRICTEDE N C L O S U R ERESTITUTION OF LOOTED PROPERTYSerial No. 93

4 August 1948

The following directive, serial number 93, prepared by the State Department to implement the policy adopted by the FEC on July 29, 1948 under the provisions of Paragraph II, a 1 of its terms of reference has been received from the State, Army, Navy, Air Force Departments for transmission to you for your guidance in accordance with Paragraph III, 1, of its terms of reference:

"1. This policy supersedes FEC-011/12 (Restitution of looted property approved 18 July 1946, and transmitted to the Supreme Commander for the Allied Powers on 24 July 1946 as directive serial number 57) as amended by FEC-011/21 (Restitution of looted property, approved 10 October 1946, and transmitted to the Supreme Commander for the Allied Powers on 16 October 1946 as directive serial number 61), and also supersedes FEC-047/2 (Disposition of captured Japanese merchant vessels, filed with the Far Eastern Commission on 24 May 1946, and transmitted to the Supreme Commander for the Allied Powers on 13 May 1946 as directive serial number 44).

"2. Immediate steps should be taken to restore to allied countries property which is found in Japan and which is identified in accordance with this paper as having been located in an allied country at or during the time of occupation of that country, and which was removed by fraud, force or duress by the Japanese or their agents. The fact that payment was made should be disregarded unless there is conclusive evidence that fraud, force or duress did not take place. Restitution of industrial and transportation machinery and equipment should be deferred, however, so long as its retention is required for the safety of the Occupation Forces. In such cases the Supreme Commander for the Allied Powers should provide an explanation of reasons for retention and an estimated date of restoration. Special policies with respect to ships are stated below.

"3. Steps should be taken to restore to allied countries ships of all types and sizes found in Japanese waters which are identified as having been registered in an allied country at the time of seizure or sinking by the Japanese or their agents, or at the time of acquisition by the Japanese or their agents by fraud, force or duress. The fact that payment was made should be disregarded unless there is conclusive evidence that fraud, force or duress did not take place. Within the limits of feasibility ships found in Japanese waters whether seaworthy, sunk or damaged, should, on the request of the claimant country, be refitted, or salvaged, repaired and refitted, as a matter of priority in Japanese yards, to permit their return in a condition substantially similar to that at the time they came into Japanese hands. The foregoing costs should be borne by the Japanese Government.

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

"5. The claimant government should take delivery at a point in Japan designated by the Supreme Commander for the Allied Powers except that at the discretion of the Supreme Commander and by agreement with the recipient country, (A) in the case of Allied vessels subject to restitution the Supreme Commander may make delivery at western Pacific points outside Japan whenever delivery will thereby be facilitated, in which case any costs of supporting and repatriating ship's crews used for such delivery should not be borne by the recipient country unless it specifically agrees to do so; and (B) in the case of delivery of other items of looted property, unutilized outgoing shipping space of Japanese vessels being employed in the importation of goods or repatriation of Japanese from a restitution recipient country to Japan may be made available at the expense of the Japanese Government but at the risk of the recipient country to delivery such items at points outside Japan. Expenses incurred after delivery to the claimant government should be borne by that government, except that in the case of delivery within Japan, relevant transportation expenses within Japan and any dismantling, packing and repair necessary for proper transportation, including the necessary manpower, materials and organization, should be borne by Japan and be included in restitution. The recipient governments should indemnify the Supreme Commander for the Allied Powers against all claims made in respect of the property received.

"6. Restitution claims for property other than ships should be made by the government of the Allied country from whose territory the property claimed was removed; and restitution made to that government. In the case of ships, restitution claims should be filed by, and restitution made to the government of the country whose flag the vessels were wearing or on whose register of shipping the vessels were borne at the time of sinking, seizure or acquisition as specified in paragraph 3.

"7. No property, including cultural objects, should be included in Japanese exports which the Supreme Commander for the Allied Powers considers as probably subject to restitution. If items later found to be subject to restitution should be exported or liquidated equitable compensation should be made to that country to which the items exported or liquidated should have been restored.

"8. After full opportunities have been given for inspection of objects known to have been looted the Supreme Commander for the Allied Powers should be authorized to liquidate property including stocks of gold, silver, other precious metals, precious stones and jewels but not cultural objects, known to have been looted but not identified pursuant to the terms of this paper. The proceeds of such liquidation shall form a secured fund to be entrusted to the care of the Supreme Commander for the Allied Powers,

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which may be used, in the discretion of the Supreme Commander for the Allied Powers, as a basis for credit for the purposes of the occupation. The initial value of the secured fund is to be preserved by the Supreme Commander for the Allied Powers or his successor authority. The Governments of Australia, China, France, India, The Netherlands, the Philippines, and the United Kingdom should have a priority right to purchase items offered for liquidation by foreign exchange acceptable to the Supreme Commander for the Allied Powers up to but not exceeding their recognized national reparations percentage shares (adjusted to total 100%, applicable to this pool) of industrial assets available from within Japan. The secured fund should finally be distributed among the countries herein specified in accordance with the percentage mentioned above, payable in United States dollars or at the discretion of the Supreme Commander for the Allied Powers, in foreign exchange acceptable to the recipient countries concerned. The secured fund shall be distributed to the recipient countries not later than 1 October 1949.

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

"10. The Far Eastern Commission should recommend to the government of those countries within whose territories may be found objects looted or acquired by fraud, force or duress by the Japanese such as:

a. Industrial and transportation machinery and equipment;

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

c. Cultural objects;

d. Agricultural products and industrial raw materials;

e. Ships;

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

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

"12. The Supreme Commander for the Allied Powers shall create an agency comprising one representative from each of the restitution and reparations teams in Japan of the eleven member countries of the Far Eastern Commission to advise on restitution matters. In addition, the Supreme Commander or his deputy should act as the non-voting chairman of the agency. It may meet at the call of the Supreme Commander or at the request of any member.

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The Supreme Commander should notify the United States Government of the views of the agency when his views conflict with those of the majority of the member countries.

"13. In applying standards of identification with respect to claims for looted property, the Supreme Commander for the Allied Powers should observe the following principles:

a. In cases of doubt, the presumption should be in favor of the claimant country whenever permitted by the broadest application of law, equity and common sense.

b. In cases of doubt as to the adequacy of the evidence of ownership submitted to support a claim for an object known to have been looted, the Supreme Commander shall inform the other members of the advisory agency of the existence of the claim. The advisory agency, after examining the evidence, shall give its advice to the Supreme Commander as to whether the claim should be approved or the provisions of paragraph 8 above applied.

"14. No claims for the restitution of looted property should be lodged with the Supreme Commander for the Allied Powers after eight months from the issuance of a directive to the Supreme Commander for the Allied Powers giving effect to this policy decision; provided that after such terminal date, claims may, with the concurrence of the Supreme Commander for the Allied Powers, be lodged for property known to have been looted but not yet identified pursuant to the provisions of this paper; and provided also that adequate opportunity be given to representatives of looted countries both before and after such terminal date to inspect property known to have been looted but not yet identified."

FEC-011/53FEC-RESTRICTEDFEC-011/5328 September 1948FAR EASTERN COMMISSIONRESTITUTION OF LOOTED PROPERTY
Report of Subcommittee on Restitution of Ships
(Reference: FEC-011/50)Note by the Secretary General

1. The enclosures, a report and recommendations prepared by the ad hoc Subcommittee on Restitution of Ships, appointed at the 168th meeting of Committee No. 1, are circulated here-with for the consideration of COMMITTEE NO. 1: REPARATIONS.
2. Enclosure "A" contains the report of the Subcommittee.
3. Enclosures "B" and "C" contain resolutions recommended by the Subcommittee for adoption by Committee No.1.
4. Enclosure "D" contains opinions of the Chinese, Soviet and U. S. Members.
5. The Subcommittee comprised the United Kingdom (chairman), Chinese, French, Soviet and U. S. Members.

NELSON T. JOHNSON
Secretary General

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ENCLOSURE "A"

RESTITUTION OF LOOTED PROPERTY
Report of Subcommittee on Restitution of Ships

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

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

3. The majority of the Subcommittee also agreed that it was desirable to gather separately information concerning (a) ships found in the waters of third countries, and (b) ships elsewhere than in the waters of third countries or of Japan.

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

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

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ENCLOSURE "B"

PROPOSED RESOLUTION

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

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

b. ships of the registry of third countries which were seized by the Japanese and are now located in their own territorial waters.

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

a. Name, type and tonnage of the vessel.

b. Date, place and circumstances of seizure.

c. If sunk or damaged, time of such sinking or damage.

d. Present location.

e. Present condition, e.g. sunk, salvable, beached, severely damaged, slightly damaged, etc.

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

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ENCLOSURE "C"

PROPOSED RESOLUTIONS

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

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

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

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

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ENCLOSURE "D"

OPINIONS OF THE CHINESE, SOVIET AND U. S. MEMBERS

1. The Chinese Member objected to the separation of the request for information into the categories in Enclosures "B" and "C", preferring a single request for information concerning all ships sunk or damaged outside Japanese waters. He agreed to forward the report to Committee No. 1 with a reservation on this point.

2. The Soviet Member said that the Soviet delegation considered this paper unnecessary since it was the Soviet view that whatever the extent of damage to ships in the waters of third countries, the cost of salvage and repairs should be borne by the Japanese.

3. The U. S. Member was not present at the last meeting of the Subcommittee, but subsequently informed the Secretariat of his approval of the Subcommittee report.

FEC-011/54FEC-RESTRICTEDFEC-011/5430 September 1948FAR EASTERN COMMISSIONRESTITUTION OF LOOTED PROPERTY
Report of Subcommittee on Restitution of Ships Outside Japan
(Reference: FEC-011/50)Note by the Secretary General

1. The enclosure, a corrected version of FEC-011/53, a report and recommendations prepared by the ad hoc Subcommittee on Restitution of Ships, appointed at the 168th meeting of Committee No. 1, is circulated herewith for the consideration of COMMITTEE NO. 1: REPARATIONS.

2. Enclosure "A" contains the report of the Subcommittee.

3. Enclosures "B" and "C" contain resolutions recommended by the Subcommittee for adoption by Committee No. 1.

4. Enclosure "D" contains opinions of the Chinese, Soviet and U. S. Members.

5. The Subcommittee comprised the United Kingdom (chairman), Chinese, French, Soviet and U. S. Members.

6. This document fully replaces FEC-011/53.

NELSON T. JOHNSON
Secretary General

FEC-011/54

FEC-RESTRICTEDENCLOSURE "A"RESTITUTION OF LOCTED PROPERTY
Report of Subcommittee on Restitution of Ships
Outside Japan

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

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

3. The majority of the Subcommittee also agreed that it was desirable to gather separately information concerning (a) ships found in the waters of third countries, and (b) ships elsewhere than in the waters of third countries or of Japan.

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

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

FEC-RESTRICTED

ENCLOSURE "B"

PROPOSED RESOLUTION

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

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

b. ships of the registry of third countries which were seized by the Japanese and are now located in their own territorial waters.

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

a. Name, type and tonnage of the vessel.

b. Date, place and circumstances of seizure.

c. If sunk or damaged, time of such sinking or damage.

d. Present location.

e. Present condition, e.g. sunk, salvable, beached, severely damaged, slightly damaged, etc.

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

FEC-RESTRICTED

ENCLOSURE "C"

PROPOSED RESOLUTION

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

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

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

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

FEC-RESTRICTEDENCLOSURE "D"OPINIONS OF THE CHINESE, SOVIET AND U. S. MEMBERS

1. The Chinese Member objected to the separation of the request for information into the categories in Enclosures "B" and "C", preferring a single request for information concerning all ships sunk or damaged outside Japanese waters. He agreed to forward the report to Committee No. 1 with a reservation on this point.

2. The Soviet Member said that in his personal opinion no such detailed information as that contained in Enclosures "B" and "C" was required for a decision on this question. It was his view that the task of the Subcommittee was the formulation of the general principles which should govern the salvaging, repairing and refitting of ships found outside Japanese waters.

3. The U. S. Member was not present at the last meeting of the Subcommittee, but subsequently informed the Secretariat of his approval of the Subcommittee report.

FEC-011/55FEC-RESTRICTEDFEC-011/5516 September 1949FAR EASTERN COMMISSION

RESTITUTION OF LOOTED PROPERTY
Philippine Statement and Proposal, 15 September 1949
(Reference: FEC-011/51)

Note by the Secretary General

The enclosure, a statement and proposal on the subject of restitution of looted property, was submitted by the Philippine representative at the 16⁴th meeting of the Far Eastern Commission, 15 September 1949, and is circulated for the consideration of the FAR EASTERN COMMISSION.

NELSON T. JOHNSON
Secretary General

FEC-011/55

FEC-RESTRICTEDE N C L O S U R ERESTITUTION OF LOOTED PROPERTY
Philippine Statement and Proposal, 15 September 1949

The Philippine Delegation raises the question concerning paragraph 8 of the FEC policy decision on the Restitution of Looted Property, adopted on 29 July 1948, which sets the date for the distribution of the proceeds from the secured funds of unidentified looted property not later than 1 October 1949.

This date is only two weeks away, and it is clear that the Commission must either delete the expiration date mentioned in the last sentence of the above-mentioned paragraph or move it back to a date that will allow the interested countries time to come to an agreement as to the distribution of the secured fund.

Of the two courses suggested, it seems to my delegation that the moving back of the date is the more appropriate one. It is always a good thing to have a target date on paper even if we cannot always comply with it. It is particularly necessary in this case because the deletion of the date from the paragraph might create the impression that we are willing to relegate a final decision to the uncertain future.

Following, therefore, the line taken by the United Kingdom delegation at an informal meeting of the representatives of the interested countries on 11 July 1949, the Philippine delegation proposes that the Commission take a decision forthwith to amend the last sentence of para. 8 of the above-mentioned policy decision so as to read: "The secured fund shall be distributed to the recipient countries not later than 1 January 1950."

My delegation further suggests that, having taken this decision, the Commission would then create an Ad Hoc Subcommittee to be composed of the representatives of the seven recipient states to sit as soon as possible for the purpose of studying and making a final recommendation to the Commission regarding the time, manner, shares and other matters connected with the final disposition of the secured fund mentioned in paragraph 8.

My Government has certain views on the question of distribution which it would be ready to present before such a subcommittee, and I am certain that other Governments would be in a position to do the same.

I would be happy to present a draft resolution for discussion at the next meeting of the Commission.

FEC-011/56FEC-RESTRICTEDFEC-011/5623 September 1949FAR EASTERN COMMISSION

RESTITUTION OF LOOTED PROPERTY
Philippine Proposed Amendment of 22 Sept. 1949
to Par. 8, FEC-011/51
(References: FEC-011/51, /55)

Note by the Secretary General

1. At the 165th meeting of the Far Eastern Commission, 22 September 1949, the Philippine Representative moved that the last two sentences of paragraph 8 of FEC-011/51, the Commission's policy decision on the subject of restitution of looted property, be amended to read:

"The secured fund should finally be distributed among the countries herein specified in accordance with a schedule of shares to be agreed upon among themselves, payable in United States dollars or, at the discretion of the Supreme Commander for the Allied Powers, in foreign exchange acceptable to the recipient countries concerned. The secured fund shall be made available for distribution to the recipient countries ~~not~~ later than 1 April 1950."

2. The proposed Philippine amendment is circulated for the consideration of the FAR EASTERN COMMISSION.

NELSON T. JOHNSON
Secretary General

FEC-011/56

FEC-011/57FEC-RESTRICTEDFEC-011/5726 September 1949FAR EASTERN COMMISSIONRESTITUTION OF LOOTED PROPERTY
Correction to FEC-011/56Note by the Secretary General

1. The Secretariat notes an error in the cover page to FEC-011/56, a Philippine proposed amendment, submitted 22 September 1949, to paragraph 8 of FEC-011/51. The last sentence in the quoted portion of paragraph 1 should be corrected to read as follows:

"The secured fund shall be made available for distribution to the recipient countries not later than 1 April 1950."

2. All members are requested to make the above correction in their copies of FEC-011/56.

NELSON T. JOHNSON
Secretary General

FEC-011/57

FEC-011/58FEC-RESTRICTEDFEC-011/5830 September 1949FAR EASTERN COMMISSIONEXTENSION OF FAR EASTERN COMMISSION POLICY ON
RESTITUTION OF LOOTED PROPERTY
Policy Decision No. 62
(Reference: FEC-011/51)Note by the Secretary General

1. Enclosure "A", a policy decision extending the Far Eastern Commission policy on restitution of looted property by amending paragraph 8 of FEC-011/51, was approved by the Far Eastern Commission at its 166th meeting, 29 September 1949.

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

3. This policy decision will be released to the press in accordance with the normal procedure.

WELSON T. JOHNSON
Secretary General

FEC-RESTRICTEDENCLOSURE "A"EXTENSION OF FAR EASTERN COMMISSION POLICY ON
RESTITUTION OF LOOTED PROPERTY
Policy Decision No. 62

The Far Eastern Commission decides as a matter of policy that the last sentence of paragraph 8 of its policy decision on Restitution of Looted Property (FEC-011/51, approved 29 July 1948 and forwarded to the Supreme Commander on 4 August 1948 as Directive Serial No. 93) shall be amended to read as follows:

"The secured fund shall be made available for distribution to the recipient countries not later than 1 April 1950."

Enclosure "A"

- 1 -

FEC-011/58
P-62

FEC-RESTRICTEDENCLOSURE "B"LETTER OF TRANSMITTAL

29 September 1949

My dear Mr. Secretary:

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

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

At the one hundred and sixty-sixth meeting of the Far Eastern Commission held at 2516 Massachusetts Avenue, Northwest, Washington, D. C., on 29 September 1949, the enclosed policy decision amending paragraph 8 of FEC-011/51 ("Restitution of Looted Property", approved 29 July 1948 and forwarded to the Supreme Commander on 4 August 1948 as Directive Serial No. 93) was approved. In the vote to approve this amendment the Netherlands and Soviet Representatives abstained.

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

This policy decision will be released to the press in accordance with normal procedure after the appropriate directive has been received by the Supreme Commander. In order that we may make our arrangements for release as expeditiously as possible, it would be appreciated if you could notify me when the United States directive has reached Tokyo.

Sincerely yours,

Nelson T. Johnson
Secretary General

Enclosure:

Certified Copy of P-62

Enclosure "B"

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FEC-011/58 - END
P-62

FEC-011/59FEC-RESTRICTEDFEC-011/597 October 1949FAR EASTERN COMMISSIONAMENDMENT OF FAR EASTERN COMMISSION POLICY ON
RESTITUTION OF LOOTED PROPERTY
Policy Decision No. 63
(Reference: FEC-011/51)Note by the Secretary General

1. Enclosure "A", a policy decision amending the Far Eastern Commission policy on restitution of looted property (FEC-011/51), was approved by the Far Eastern Commission at its 167th meeting, 6 October 1949.
2. The letter of transmittal of the Secretary General forwarding this decision on behalf of the Commission, in accordance with its Terms of Reference, to the Acting Secretary of State of the United States Government, is circulated as Enclosure "B".
3. Following adoption of the enclosure the Commission agreed that it should be released to the press in accordance with the normal procedure.

NELSON T. JOHNSON
Secretary General

FEC-011/59
P-63

FEC-RESTRICTEDENCLOSURE "A"AMENDMENT OF FAR EASTERN COMMISSION POLICY ON
RESTITUTION OF LOOTED PROPERTY
Policy Decision No. 63

The Far Eastern Commission decides as a matter of policy that the penultimate sentence of paragraph 8 of its policy decision on Restitution of Looted Property (FEC-011/51, approved 29 July 1948 and forwarded to the Supreme Commander on 4 August 1948 as Directive Serial No. 93) shall be amended to read as follows:

"The secured fund should finally be distributed among the countries herein specified in accordance with the percentages mentioned above, or in accordance with a schedule of shares to be agreed upon by such countries, payable in United States dollars or, at the discretion of the Supreme Commander for the Allied Powers, in foreign exchange acceptable to the countries concerned."

Enclosure "A"

- 1 -

FEC-011/59
P-63

FEC-RESTRICTEDENCLOSURE "B"LETTER OF TRANSMITTAL

6 October 1949

My dear Mr. Secretary:

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

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

At the one hundred and sixty-seventh meeting of the Far Eastern Commission held at 2516 Massachusetts Avenue, Northwest, Washington, D. C., on 6 October 1949, the enclosed policy decision amending paragraph 8 of FEC-011/51 ("Restitution of Looted Property", approved 29 July 1948 and forwarded to the Supreme Commander on 4 August 1948 as Directive Serial No. 93) was approved. In the vote to approve this amendment the Soviet Representative abstained.

The Commission agreed that the text of the enclosed policy should be released to the press after the appropriate directive has been received by the Supreme Commander. In order that we may make our arrangements for release as expeditiously as possible, it would be appreciated if you could notify me when the United States directive has reached Tokyo.

Sincerely yours,

David K. Eichler
Acting Secretary General

Enclosure:

Certified Copy of P-63

The Honorable
James E. Webb,
Acting Secretary of State,
Washington, D. C.

Enclosure "B"

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FEC-011/59
P-63 - END.

FEC-011/60FEC-RESTRICTEDFEC-011/6020 October 1949FAR EASTERN COMMISSIONEXTENSION OF FAR EASTERN COMMISSION POLICY ON
RESTITUTION OF LOOTED PROPERTY
Directive Serial No. 107
(Reference: FEC-011/58)Note by the Secretary General

1. The enclosure, a United States directive to the Supreme Commander for the Allied Powers forwarding a statement of policy of the Far Eastern Commission extending its policy on restitution of looted property by amending paragraph 8 of FEC-011/51, is circulated for the information of the Far Eastern Commission.

2. This directive was forwarded to the Supreme Commander on 5 October 1949, and a certified copy has been filed with the Commission in accordance with Section III, paragraph 4, of the Terms of Reference.

NELSON T. JOHNSON
Secretary General

FEC-011/60

FEC-RESTRICTEDE N C L O S U R EEXTENSION OF FAR EASTERN COMMISSION POLICY ON
RESTITUTION OF LOOTED PROPERTYSerial No. 107

5 October 1949

The following directive, Serial 107, prepared by the Department of State to implement the policy adopted by the Far Eastern Commission on 29 September 1949 under the provisions of Paragraph II, A, 1, of its terms of reference, has been received from the Department of the Army for transmission to you for your guidance in accordance with Paragraph III, 1, of the Commission's terms of reference:

"The Far Eastern Commission decides as a matter of policy that the last sentence of Paragraph 8 of its policy decision on Restitution of Looted Property (FEC-011/51, approved 29 July 1948 and forwarded to the Supreme Commander on 4 August 1948 as Directive Serial No. 93) shall be amended to read as follows:

'The secured fund shall be made available for distribution to the recipient countries not later than 1 April 1950.'

FEC-011/61FEC-RESTRICTEDFEC-011/6125 October 1949FAR EASTERN COMMISSIONAMENDMENT OF FAR EASTERN COMMISSION POLICY ON
RESTITUTION OF LOOTED PROPERTY
Directive Serial No. 108
(Reference: FEC-011/58)Note by the Secretary General

1. The enclosure, a United States directive to the Supreme Commander for the Allied Powers forwarding a statement of policy of the Far Eastern Commission amending its policy on restitution of looted property (FEC-011/51) is circulated for the information of the Far Eastern Commission.

2. This directive was forwarded to the Supreme Commander on 14 October 1949, and a certified copy has been filed with the Commission in accordance with Section III, paragraph 4, of the Terms of Reference.

NELSON T. JOHNSON
Secretary General

FEC-011/61

FEC-RESTRICTEDE N C L O S U R EAMENDMENT OF FAR EASTERN COMMISSION POLICY ON
RESTITUTION OF LOOTED PROPERTYSerial No. 108

14 October 1949

The following directive, Serial No. 108, prepared by the Department of State to implement the policy adopted by the Far Eastern Commission on 6 October 1949 under the provisions of Paragraph II, A, 1, of its terms of reference, received from the Department of the Army, is transmitted for your guidance in accordance with Paragraph III, 1, of the Commission's terms of reference:

"The Far Eastern Commission decides as a matter of policy that the penultimate sentence of Paragraph 8 of its policy decision on Restitution of Looted Property (FEC-011/51, approved 29 July 1948 and forwarded to the Supreme Commander on 4 August 1948 as Directive Serial No. 93) shall be amended to read as follows:

'The secured fund should finally be distributed among the countries herein specified in accordance with the percentages mentioned above, or in accordance with a schedule of shares to be agreed upon by such countries, payable in United States dollars or, at the discretion of the Supreme Commander for the Allied Powers, in foreign exchange acceptable to the countries concerned.'

FEC-011/62FEC-RESTRICTEDFEC-011/6220 April 1950FAR EASTERN COMMISSION

RESTITUTION OF LOOTED PROPERTY
Information on Secured Fund
(References: Minutes, 190th FEC Mtg.)

Note by the Secretary General

1. The enclosure, information received from the Supreme Commander regarding the secured fund of proceeds from the liquidation of looted property, was submitted by the United States representative at the 191st meeting of the Far Eastern Commission, 20 April 1950, and is circulated for the information of the Commission.

2. The enclosure is supplemental to a statement made by the United States representative on 6 April 1950 (p. 3, minutes 190th FEC meeting) and is intended to constitute a reply to requests for further information made at that time by the Indian and Netherlands representatives.

NELSON T. JOHNSON
Secretary General

FEC-011/62