10. The formation of trade unions should be a process of democratic self-expression and initiative, proceeding from the workers themselves. Employers should not be allowed to take part in the organization or conduct of unions or to finance them.

11. Trade union officials and standing committees should be elected by the workers concerned by secret ballot and democratic methods. It should be the responsibility of the unions to ensure that all officials have been democratically elected at regular stated intervals and that all their activities are democratically conducted.

12. No person who is subject to the purge directive of 4 January 1946, or to subsequent purge directives, should be allowed to hold office in a trade union. All persons who were directly connected in the past in a responsible capacity with the obstruction or repression of trade union organization or activity should be prohibited from employment as union officials, in labor agencies or as mediators, conciliators, or arbitrators. All persons who held office in government-sponsored or controlled trade unions should be subject to screening before being allowed to take office again.

13. Japanese Government and other agencies which were set up or functioned for the purpose of obstructing or in such a way as to obstruct free labor organization and legitimate trade union activities should be abolished or their powers in respect to labor revoked. No police or other government agencies should be employed in spying on workers, breaking strikes, or suppressing legitimate union activities.

14. Any undemocratic workers' organizations or their affiliates, such as the Patriotic Industrial Associations, should be dissolved and not allowed to revive. No new workers' organizations with militaristic, ultra-nationalistic, fascist, or other totalitarian aims should be permitted.

15. Persons who have been imprisoned because of activity or "dangerous thoughts" in connection with trade unions and other labor organizations should be released.

16. The balance sheet and table of income and expenditure of each trade union showing also the source of large contributions should be available for public inspection. Safeguards such as annual audit by a professionally competent auditor appointed by the members should be taken to ensure the accuracy of these statements.

APPENDIX 38

Policy for the Revision of the Japanese Educational System

[FEC Policy Decision, March 27, 1947]

GUIDING PRINCIPLES AND OBJECTIVES.

1. Education should be looked upon as the pursuit of truth, as a preparation for life in a democratic nation, and as a training for the social and political responsibilities which freedom entails. Emphasis should be placed on the dignity and worth of the individual, on independent thought and initiative, and on developing a spirit of inquiry. The inter-dependent character of international life should be stressed. The spirit of justice, fair play, and respect for the rights of others, particularly minorities, and the necessity for friendship based upon mutual respect for people of all races and religions, should be emphasized. Special emphasis should also be placed on the teaching of the sanctity of the pledged word in all human relations, whether between individuals or nations. Measures should be taken as rapidly as possible to achieve equality of educational opportunity for all regardless of sex or social position. The revision of the Japanese educational system should in large measure be undertaken by the Japanese themselves and steps should be taken to carry out such revision in accordance with the principles and objectives set forth in this paper.

TRAINING, RECRUITMENT, AND CONDITIONS OF SERVICE OF TEACHERS.

2. Those teachers and other educational officials whose record shows them to have been pronounced exponents of ultra-nationalistic, militaristic, or totalitarian ideas, should be forbidden to teach or engage in other employment connected with education.

3. Short refresher courses and vacation schools for teachers should be opened, so far as possible, in order to train them in democratic ideas.

4. The development of modern techniques of teaching should be encouraged and opportunities should be provided for teachers to become acquainted with these techniques. In this connection, regard should be had to the value of affording teachers opportunities of transferring from one institution to another.

5. As a corrective to the regimented and limiting nature of normal school training in the past, and to provide teachers with aims and techniques in harmony with the objectives of the occupation, special emphasis should be placed upon the reorganization of normal schools and the establishment of teachers training institutes staffed with the most competent instructors available for inculcating democratic

principles. Endeavors should be made to increase the proportion of teachers who have had a university training.

6. The teaching profession should be recognized as of vital importance to the future welfare and democratic development of the nation, and its economic status should be improved to a degree commensurate with this importance. Consideration should be given to the establishment of salary scales affording all teachers a reasonable standard of living according to their abilities, qualifications, and responsibilities without the necessity of supplementing their income from outside sources. A basic living wage should be guaranteed for all teachers, with increases according to their qualifications.

TEXTBOOKS, CURRICULA AND TEACHING METHODS.

7. Teaching of ultra-nationalism, state Shintoism, veneration of the Emperor, exaltation of the state over the individual, and race superiority, should be eliminated from the educational system.

8. Textbooks and other reading material that contain such ideas as those outlined above should be withdrawn from use in schools. New textbooks should be issued which give an understanding of progressive ideas. Foreign books should be made available, especially in central libraries, and for teachers. These objectives should be given due weight when allocations of paper supplies and imports of foreign publications are made.

9. Courses in social sciences, civics, constitutional law and government, current events, world affairs and international cooperation should be made an integral part of the educational system at appropriate levels of teaching.

10. Teaching of military subjects should be totally forbidden in all educational institutions. The wearing by students of military-style uniforms should be forbidden. Classical sports such as KENDO, which encourage the martial spirit, should be totally abandoned. Physical training should no longer be associated with the SEISHIN KYOIKU. Greater emphasis should be placed on games and other recreational activities than on pure calisthenics and drill. If former servicemen are employed as drill instructors, or in connection with physical training or sport, they should be carefully screened.

11. Imperial rescripts should not be used as a basis of instruction, study, or ceremonies in schools.

12. Independent thinking on the part of teachers and students should be encouraged.

13. Uniform minimum standards should be prescribed for the different levels of instruction in all the schools of Japan, whether public or private.

ADULT EDUCATION.

14. Adult education should be promoted rapidly by the use of all suitable facilities such as evening classes, university extension courses, the radio, the cinema, and libraries.

VOCATIONAL EDUCATION.

15. Japanese youth should be provided with opportunities for varied vocational training and guidance and appropriate organizations for this purpose.

EDUCATIONAL ADMINISTRATION AND FINANCE.

16. The Japanese Government should seek advice from representatives of all walks of life either through a non-official advisory council or otherwise.

17. The Japanese Government should exercise such control over the education system as will ensure the achievement of the objectives of the occupation, particularly the reforms called for by this policy decision. Subject to the foregoing, and to maintenance of standards prescribed by the Government, the responsibility for the local administration of educational establishments should in due time be decentralized. Japanese parents and citizens should be encouraged to feel a sense of individual responsibility for the achievements of the objectives set out in paragraph 1. Where practicable they should be associated with the control, development, and work of the schools and other educational institutions.

18. The plans enumerated in this paper should be closely correlated with the reforms in the social, economic and political life of the nation. In the implementation of the educational policies outlined above, funds should be allocated for all essential educational reform commensurate with the needs and resources of the nation.

19. In order that educational standards in poor districts should not be lowered by the inability of some local bodies to provide sufficient finance from local revenue, finance for education should come for the most part from the national government, which should be responsible for the maintenance of an adequate level of education throughout Japan. Local and private bodies should be encouraged to supplement these funds provided by the national government.

20. Free and compulsory education should be provided for all Japanese children for a minimum period of six years and should be extended to higher age groups as rapidly as possible.

21. More opportunities should be provided for higher education.

22. Equal opportunity for both sexes should be provided at all levels of education—primary, secondary, and tertiary.

23. Encouragement should be given to the formation and reorientation of educational associations, parent-teacher associations; and to assist in making the Japanese people aware of the significant changes in the direction of education in a democratic Japan, such groups should be encouraged to consider practical problems of education.

24. Discrimination against the graduates of private schools in civil service appointments should be eliminated, provided the schools in question conform to educational standards laid down for the public educational system.

25. Educational institutions of foreign foundation in Japan have played a useful part in the past in widening and deepening the scope of Japanese education, and should be given equal rights to those of Japanese institutions in future.

APPENDIX 39

Apprehension, Trial and Punishment of War Criminals in the Far East

[FEC Policy Decision, April 3, 1946]

1. The term "war crimes" as used herein, includes:

a. Planning, preparation, initiation or waging of a war of aggression or a war in violation of international treaties, agreements and assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing.

b. Violations of the laws or customs of war. Such violations shall include but not be limited to murder, ill treatment or deportation to slave labor or for any other purpose of civilian population of, or in, occupied territory, murder or ill treatment of prisoners of war or persons on the seas, or elsewhere improper treatment of hostages, plunder of public or private property, wanton destruction of cities, towns or villages or devastation not justified by military necessity.

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c. Murder, extermination, enslavement, deportation and other inhumane acts committed against any civilian population, before or during the war or prosecutions on political, racial or religious grounds in execution of or in connection with any crime defined herein whether or not in violation of the domestic law of the country where perpetrated.

2. The offense need not have been committed after a particular date to render the responsible party or parties subject to arrest but, in general, should have been committed since, or in the period immediately preceding the Mukden incident of September 18, 1931. The preponderance of cases may be expected to relate to the years since the Lukouchiao incident of July 7, 1937.

3. All practicable measures should be taken to identify, investigate, apprehend, and detain all persons suspected of having committed war crimes, as defined in paragraph 1 above, and all persons whom any one of the United Nations or Italy charges with such crimes.

4. Suspected war criminals should be held in close confinement, without access to the press or other media of public information, and without distinction as to rank or position, as befits ordinary criminals.

5. The Supreme Commander for the Allied Powers should have:

(*a*) power to appoint special international military courts (which term should be held to include tribunals of any type) composed of military, naval, or air force officers or civilians representing any two or more of the states members of the Far Eastern Commission for the trial under any applicable law, domestic or international, including the laws and customs of war, of the Far Eastern war criminals indicted by the Governments of these states, and

(*b*) power to prescribe, subject to consultation with the representatives of those governments, rules of procedure for such courts. The Supreme Commander shall appoint to each international court a judge nominated by each state represented on the Far Eastern Commission which signifies its desire to participate in the work of such court. In the appointment of the international courts and in all trials before them, the international character of the courts and of the authority by which they were appointed and under which they act should be properly emphasized and recognized, particularly in dealings with the Japanese people. The Supreme Commander for the Allied Powers should have, (1) the responsibility for carrying out the judgments of any international courts appointed by him, and (2) the power to approve, reduce or otherwise alter any sentences imposed by any such courts, but not to increase the severity thereof, after consultation with the Allied Council for Japan and

the Representatives in Japan of the other Powers, members of the Far Eastern Commission.

6. The Supreme Commander for the Allied Powers (*a*) should promptly establish an agency, acting under his Command to investigate reports of war crimes, to collect and analyze evidence, to arrange for the apprehension and prompt trial of suspects, to prepare, supervise and conduct the prosecution of individuals and organizations before international military courts or tribunals, and to recommend to the Supreme Commander which individuals and organizations should be prosecuted, before what courts they should be tried and what persons should be secured as witnesses, and (*b*) should provide, after discussion with the local representatives of the nations involved, and in a manner consistent with efficient administration, for equitable inclusion in the membership of such agency of suitable representatives of the States members of the Far Eastern Commission. This agency should advise the Supreme Commander and other Military commanders for the Allies on matters relating to war criminals. This agency should attach importance to the investigation of the evidence that offenses of the type described in paragraph 1 *a* above have been committed, should collect and analyze the evidence of such offenses and should recommend to the Supreme Commander a plan as indicated in paragraph 5 above for the appointment of an international court for the trial of such offenses and the charges to be preferred. This agency should also maintain a central record and information office of Japanese war criminals and war crimes, the records and files of which should be available to any interested United Nation.

7. The military command of any nation (including the United States) participating in the occupation of areas previously dominated by Japan may establish special national military courts to deal with war criminals not held or requested by the Supreme Commander for trial by an international military court or tribunal of the types referred to in paragraph 6 above. Such courts should be separate from courts which may be set up to deal with current offenses against the occupation or infractions of military discipline.

8. Military commanders of forces of occupation in the Far East should promptly comply with a request by the government of any one of the United Nations or Italy for the delivery to it of any person who is stated in such request to be charged with a war crime, subject to the following exceptions:

(1) Persons who have held high political, civil or military positions in the Japanese Empire or in one of its allies, co-belligerents or satellites, should not be delivered, pending decision whether such person should be tried before an international military court or tri-

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bunal. Suspected war criminals desired for trial before such a court or tribunal or persons desired as witnesses at such trials will not be turned over to the nation requesting them so long as their presence is desired in connection with such trials.

(2) Where persons are requested by more than one of the Governments above-mentioned for trial of a war crime, the military commanders concerned should make their determinations based on all circumstances, including the relative seriousness of the respective charges against such a person and the national interests involved, and should deliver the requested person to a particular United Nation or Italy accordingly.

9. Compliance with any request for the delivery of a suspected war criminal should not be delayed on the ground that other requests for the same person are anticipated.

10. Delivery of a suspected war criminal to a requesting government should be subject to the condition that if such person is not brought to trial, tried and convicted within six months from the date he is so delivered, he will be returned to the authority who made delivery if he has been requested for trial by any of the other United Nations or Italy.

11. Military commanders should take under their control, pending subsequent decisions as to its eventual disposition, property, real and personal, found in areas of their respective jurisdiction and owned or controlled by persons taken into custody pursuant to the provisions of paragraph 3 above.

12. Such measures as are deemed necessary should be taken to insure that witnesses to war crimes will be available when required.

13. The execution of death sentences should be deferred if there is reason to believe that the testimony of those convicted would be of value in the trial of other war criminals.

14. Any national of any United Nation who may be requested, or who there is reason to believe may be desired, by his government as a renegade or quisling, should be arrested. Such persons should normally be turned over as soon as practicable to their government.

15. Military commanders having custody of alleged offenders requested under paragraphs 8 and 14 above, if in doubt as to whether such persons should be turned over to the demanding nation for trial, should consult their government and, in appropriate cases, leave the matter to be dealt with through diplomatic channels. Within the main islands of Japan, the Supreme Commander for the Allied Powers will have custody of such alleged offenders and should consult the Joint Chiefs of Staff in cases of doubt.

APPENDIX 40

Property of War Criminals

[FEC Policy Decision, June 12, 1947]

1. The property of convicted war criminals should be forfeited if so ordered by a tribunal. If not so ordered, it should be returned to the owner or to his legal heirs, unless it is subject to other occupation policy directives of general application requiring impounding, forfeiture or restitution. The Far Eastern Commission should recommend to member governments that they inform the Supreme Commander for the Allied Powers of any sentences imposed by their tribunals on convicted war criminals which involve forfeiture of or levy upon property within his jurisdiction. Upon receipt of such information, the Supreme Commander should cause the property of persons so convicted to be forfeited pursuant to the tribunal's order.

2. Such property forfeited or fines levied at the direction of the Supreme Commander pursuant to an order of a tribunal should become available for occupation costs.

3. The property taken under control by military commanders of accused persons who have been acquitted or who died before completion of trial should be returned to the accused persons or the legal heirs as the case may be, provided that where it is claimed that its acquisition was unlawful or inconsistent with occupation policy directives, or where its release to these persons would be inconsistent with such directives, the acquittal or death should not prevent its forfeiture or other treatment pursuant to occupation policy directives.

APPENDIX 41

Aliens in Japan

[FEC Policy Decision, June 5, 1946]

1. The major policies in regard to aliens in Japan including Formosan-Chinese and Koreans are that:

a. Aliens should be allowed, if they so desire, to leave Japan as early as possible, except such persons who are held as war criminals or for security reasons; and

b. Subject to the general control of the Supreme Commander the Japanese authorities should be held responsible for the care, safety,

and welfare of such persons and for their transportation to ports of embarkation.

2. To carry out these policies, the following steps should be taken:

A. NEUTRAL NATIONALS.

All nationals of neutral nations should be required to register with the appropriate military authorities and their respective governments should be notified as to the location and status of these persons. All nationals of neutral nations who have actively participated in any way in the war against one of the United Nations should be arrested for disposition in conformity with other instructions. Neutral nationals should be accorded no special privileges of communications or business relations with their home countries or people resident outside Japan. The persons, archives, and property of diplomatic and consular officials of neutrals should be accorded full protection.

B. UNITED NATIONS NATIONALS.

(1) Civilians who are nationals of the United Nations should be, except as noted below, repatriated, if they so desire upon the concurrence of the government concerned. All such civilians resident or interned in Japan should be identified, examined closely and, if the Supreme Commander deems it advisable, placed in custody or restricted residence. The Supreme Commander should inform the representatives of the nationals' government of the reasons for the arrest or restricted residence of those nationals and consult with them concerning future treatment of such persons. Any such person who has played an active part in the formulation or execution of the Japanese program of aggression or who is believed to be desired by his government as a renegade or quisling should be held for disposition in accordance with applicable directives.

(2) Persons of Japanese race claiming citizenship of any other United Nation should be repatriated only upon concurrence of the government of such nation.

C. Stateless persons, Central European refugees from Nazi oppression and Italian non-Fascists should be assimilated in treatment to United Nations nationals, providing such persons have not supported the Axis cause.

D. RESPONSIBILITIES OF THE JAPANESE AUTHORITIES.

Measures should be taken on behalf of United Nations nationals and neutrals to insure the health, welfare and transportation to a port from which they may embark for transoceanic destinations, and should, in so far as practicable, be the responsibility of the Japanese Government. Any deficiencies resulting in the carrying out of these measures in respect to United Nations nationals should be supplied by the Supreme Commander and the cost thereof should be charged to the Japanese Government. Repatriation from such a port should be provided in accordance with appropriate arrangements between the governments concerned.

E. POLITICAL, RACIAL AND RELIGIOUS PRISONERS.

Prisoners of non-Japanese nationality found held by the Japanese should be examined for identification and their records reviewed for determination of the cause of detention. All those found to be detained solely on political, racial or religious grounds, should be released except those whom the Supreme Commander decides to hold for security reasons. Those detained should be given prompt trial.

F. NON-JAPANESE NATIONALS OF THE COUNTRIES WHICH ARE OR HAVE BEEN AT WAR WITH THE UNITED NATIONS IN THE SECOND WORLD WAR.

(1) All nationals of countries except Japan with which any of the United Nations are or have been at war in the Second World War (Bulgaria, Finland, Germany, Hungary, Italy, Rumania and Siam) should be identified and registered and may be interned or their activities curtailed as may be necessary under the circumstances. Diplomatic and consular officials of such countries except those identified as loyal to the cause of the United Nations should be taken into honorable custody, held for investigation, and thereafter repatriated in accordance with the provisions of subparagraphs (2), (3), (4) and (5) below.

Property, real and personal, owned or controlled by persons who have been detained or arrested under the provisions of the foregoing paragraph should be taken under control pending directions as to its eventual disposition.

(2) Those non-Japanese enemy nationals who were known as agents or propagandists of Nazism and Fascism (including research experts and students, scientifically skilled persons, persons holding administrative posts in commerce or government and all those who

sought repatriation to enemy countries during the period of hostilities) should be interned and, after confirmation and agreement by the appropriate authorities in their home countries, repatriated.

(3) Those non-Japanese enemy nationals not subject to internment and repatriation should be given their freedom unless internment is necessary for their protection.

(4) The voluntary repatriation of enemy or ex-enemy nationals of non-Japanese nationality not subject to forceable repatriation should be permitted.

(5) Transportation to a port of embarkation for transoceanic destination should be at the expense of Japan and repatriation therefrom should be provided in accordance with appropriate arrangements between the governments concerned.

G. FORMOSAN-CHINESE AND KOREANS.

(1) The Supreme Commander should treat Formosan-Chinese and Koreans as liberated people in so far as military security permits. They are not included in the term "Japanese" as used in this paper but they have been Japanese subjects and may be treated, in case of necessity, as enemy nationals. They should be identified as to nationality, place of residence and present location. They may be repatriated if they so desire under such regulations as the Supreme Commander may establish. However, priority will be given to the repatriation of nationals of the United Nations.

The Supreme Commander, if he finds it necessary, should direct the repatriation of Formosan-Chinese and Koreans and coordinate such repatriation with the repatriation of Japanese nationals from Korea and Formosa.

(2) Arrangements for the repatriation of Formosan-Chinese should be made with the government of China by the United States Government.

(3) Pending completion of arrangements for the repatriation of Koreans formerly resident in Korea north of 38° North Latitude, between the Soviet Union and the United States, the Supreme Commander, if he finds it necessary, may repatriate such Koreans to that part of Korea south of 38° North Latitude.

(4) When arrangements have been entered into as indicated in subparagraphs (2) and (3) above, and subject to such arrangements, the Supreme Commander should permit voluntary repatriation of Formosan-Chinese and Koreans and may direct their repatriation if he deems such action necessary. Priority, however, should be given to the repatriation of nationals of the United Nations.

(5) Formosan-Chinese and Koreans should be protected from hostile Japanese elements. The Supreme Commander should insure that the Japanese authorities make adequate provision in fact for the care, safety and welfare of Formosan-Chinese and Koreans pending their repatriation.

H. PROTECTION OF PROPERTY.

(1) Within such limits as are imposed by the military situation, the Supreme Commander should take all reasonable steps necessary to preserve and protect the property of United Nations Nationals in Japan.

(2) Record of wages, bank deposits and ownership of securities and other personal property of all aliens should be preserved.

I. RETURN TO HOMES IN JAPAN.

Aliens having homes in Japan and not held as war criminals or for security reasons, should be permitted to return to their homes as soon as conditions permit.

J. USE OF UNRRA AND VOLUNTARY AGENCIES.

UNRRA and private relief agencies may be used at the discretion of the Supreme Commander wherever available in the care and repatriation of United Nations nationals and those assimilated to them in treatment.

APPENDIX 42

Japanese Taxation of Aliens

[FEC Policy Decision, July 18, 1946]

1. No Japanese taxation should discriminate against aliens.

2. No capital levy should be levied by the Japanese authorities in respect to property in or outside Japan owned by United Nations nationals. Any capital levy on corporations and unincorporated associations should be so devised as to exempt from the effects of the levy, the shares and interests in the said corporations and unincorporated associations held by United Nations nationals. If in the opinion of

the Supreme Commander for the Allied Powers, exceptional circumstances justify the imposition of any such capital levy, he should refer the matter for consideration of the Far Eastern Commission.

APPENDIX 43

Exercise of Criminal and Civil Jurisdiction Over Nationals of Members of the United Nations

[FEC Policy Decision, August 15, 1946]

1. The Supreme Commander for the Allied Powers should provide that no criminal jurisdiction of any sort will be exercised by the Japanese courts with respect to nationals of Members of the United Nations, but that such criminal jurisdiction will be exercised by military courts of Members of the United Nations as follows:

a. In the case of military, naval or air force personnel and persons attached to or accompanying the armed forces, by courts of the nation of the forces of which they are a part. A national of a Member of the United Nations who is present in Japan on official business and for the purpose of performing functions in the interest of the occupation is to be regarded as "attached to or accompanying the Armed Forces".

b. In the case of a national of one of the occupying powers, by a military court of his nationality; and

c. In the case of other nationals of Members of the United Nations, by the Allied military court having jurisdiction in the particular territory. Such courts should be composed of three members appointed by the Supreme Commander for the Allied Powers, one of whom should be a representative of that nation whose national is held for trial, provided that if, in the judgment of the Supreme Commander, selection of such a representative would obstruct or unnecessarily delay the proceedings because of the non-availability of qualified personnel, then a representative of some other nation may be designated.

2. The authority of the Japanese to take into custody any national of a Member of the United Nations should be strictly limited:

a. To those areas of Japan not actually in Allied military occupation, and

b. In such areas, only to those cases in which there is reasonable evidence that a serious offense has been committed. The Japanese

authorities should be placed under specific orders to hand over such a person forthwith to the nearest Allied military authorities.

3. Provision should be made that no civil jurisdiction of any sort will be exercised by the Japanese courts with respect to nationals of Members of the United Nations attached to or accompanying the armed forces.. Civil jurisdiction in these cases should be exercised in a manner determined by the Supreme Commander.

4. Decisions in all civil cases affecting other nationals of Members of the United Nations or in which such nationals are or may become parties, should be reviewed by the Supreme Commander or his representative, who may revise the decision or take such other action as may be considered necessary for the protection of their rights.

5. The Supreme Commander should take such steps as he deems necessary, including suspension of proceedings, to ensure that in the conduct of such civil cases the rights of nationals of Members of the United Nations parties thereto are adequately protected.

6. It is recognized that the available United States legal officers will be barely sufficient to deal with such cases as involve United States nationals. The Supreme Commander may therefore advise the responsible commanders of other Allied forces that assistance in such cases as involve their nationals must be supplied by them.

7. The term, "nationals of Members of the United Nations," as used in this document includes, wherever applicable, organizations and corporations of Members of the United Nations as well as persons.

APPENDIX 44

Destruction or Removal of United Nations Property in Japan

[FEC Policy Decision, April 24, 1947]

1. This policy decision deals with the treatment of the property in Japan of nationals of Members of the United Nations when such property forms part of an industry, the capacity of which is subject to reduction either by the destruction or by the removal of plants under the terms of relevant policies of the Far Eastern Commission.

2. Such property shall be regarded as United Nations property for the purpose of this policy decision and shall hereafter be so termed

a. if owned by nationals of Members of the United Nations, or

b. if it has been treated as enemy property by the Japanese Government, or

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c. if owned by a corporation, the stock of which is substantially owned directly or indirectly by nationals of Members of the United Nations, or

d. if owned by a corporation in which a minority of the stock is owned by nationals of Members of the United Nations but nationals of Members of the United Nations nevertheless have controlling rights.

3. United Nations property which is subject to destruction, in accordance with policies of the Far Eastern Commission on the disarmament of Japan and the reduction of Japanese industrial war potential, should be destroyed irrespective of the nationality of the owner.

4. When such United Nations property is destroyed, the United Nations owners should be entitled to full compensation for the value of their interest in the plant at the time of destruction.

5. United Nations property within the categories of industrial plants and facilities which are subject to removal in accordance with policies of the Far Eastern Commission should not be selected for removal so long as Japanese-owned industrial facilities within the same categories are available for removal.

6. When such United Nations property is selected for removal, the owner's government should be given a reasonable opportunity to remove the property or any part of it from Japan, expenses being borne by the Japanese Government to the same extent as in the removal and delivery of other reparations goods. If such industrial facilities are removed by the owner's government the value of such property which is removed should be applied against the reparations account of that government. Any such property which the owner's government fails to remove within a reasonable time should be made available to other governments from the reparations pool.

7. When such United Nations property is made available for reparations, the United Nations owners should be entitled to full compensation for the value of their interest in the plant at the time of removal.

8. When a United Nations owner is entitled to compensation under paragraphs 4 or 7 above, such compensation should be paid to the owner by the Japanese Government in yen, and should not be charged to the reparations share of the government of which the United Nations owner is a national. Such compensation should be distinct from and additional to any other claims for compensation which the owner may have with respect to this property.

9. The Japanese Government should remain responsible for safeguarding and maintaining United Nations property until it is disposed of in accordance with the foregoing paragraphs.

APPENDIX 45

Japanese Research and Activity in the Field of Atomic Energy

[FEC Policy Decision, January 30, 1947]

1. Japanese research or other activity in the field of atomic energy should be governed by the following:

a. such decisions by the United Nations on international control of atomic energy as are applicable;

b. additional restrictive policies established for the disarmament and control of Japan.

2. In view of continuing discussion of the foregoing, the Far Eastern Commission considers that the Japanese should not be permitted at present to conduct research in the field of atomic energy, or to develop or use atomic energy. The Commission accordingly establishes the following policy:

a. All research in Japan, of either a fundamental or applied nature, in the field of atomic energy should be prohibited, including:

(1) all research or development which has for its purpose the production of fissionable atomic species;

(2) all research or development which has for its purpose the separation or concentration of fissionable species of atomic isotopes from the naturally occurring isotope mixture of a chemical element.

b. All development or construction in Japan which has for its purpose the utilization of atomic nuclear energy should be prohibited.

c. The mining, processing, and refining of radioactive materials in Japan for authorized purposes, such as radium for medical uses, should be permitted only in those instances specifically approved by the Supreme Commander for the Allied Powers and under his surveillance.

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DEPARTMENT OF STATE

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THE

Far Eastern Commission

SECOND REPORT BY THE
SECRETARY GENERAL

Far Eastern Commission
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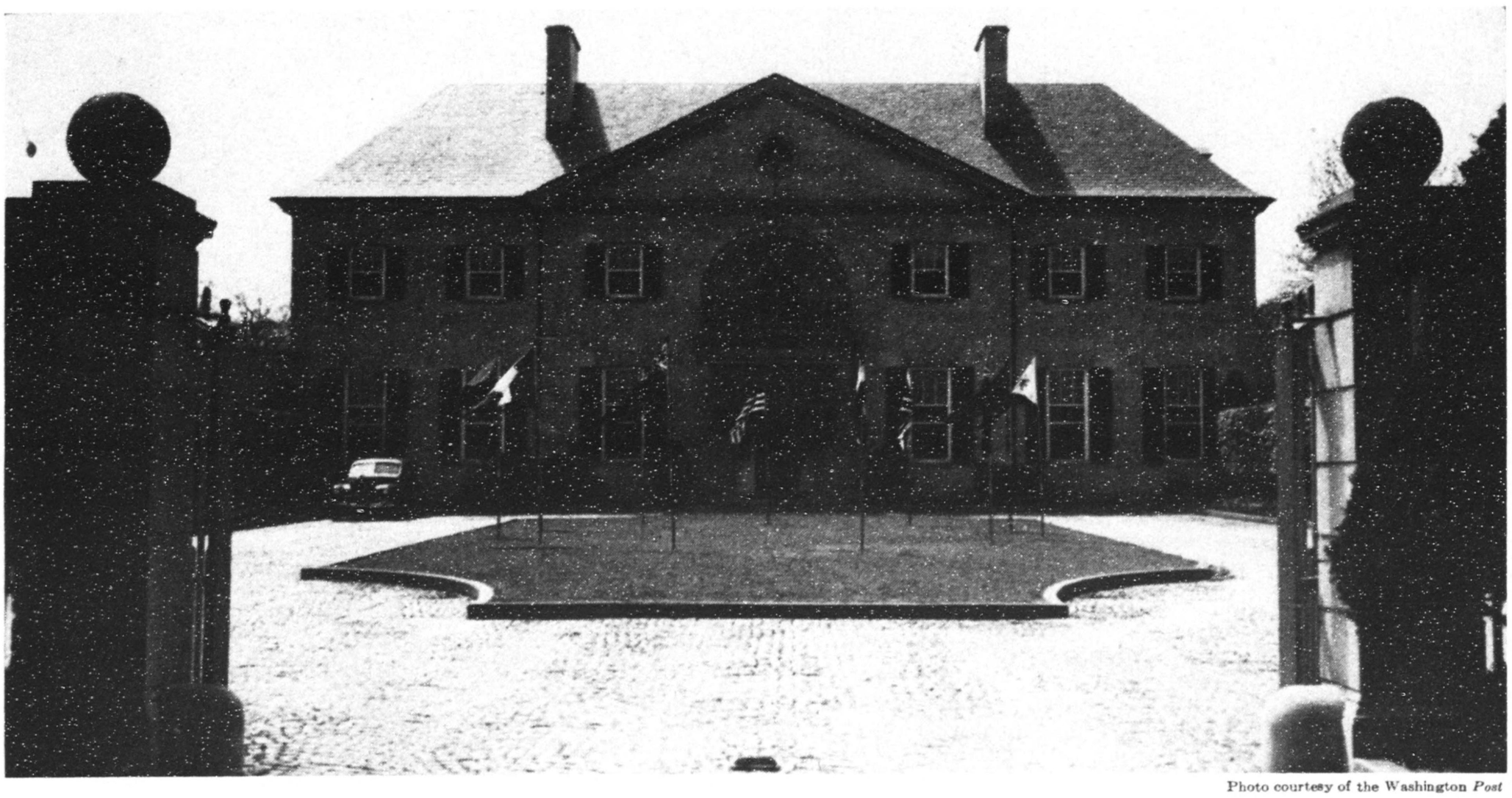

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THE

Far Eastern Commission

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July 10, 1947 - December 23, 1948

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LETTER OF TRANSMITTAL

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December 29, 1948

MY DEAR MR. SECRETARY:

I have the honor to transmit herewith for your information a copy of the second public report by the Secretary General of the Far Eastern Commission covering the activities of the Commission from July 10, 1947, through December 23, 1948. This report is being released to the press on January 4, 1949.

You will recall that the first public report of the Secretary General covering the activities of the Commission from its inception on February 26, 1946, through July 10, 1947, was reprinted by the Department of State for issuance to the general public. In view of the important part which the Far Eastern Commission continues to play in the formulation of Allied policy for Japan, and the interest and concern of the American people in that policy, I would recommend to you that the Department of State undertake to reprint the text of the Secretary General's second report as an item in its public information program.

Sincerely yours,

FRANK R. MCCOY
Chairman

Enclosure

The Honorable ROBERT A. LOVETT
Acting Secretary of State
Department of State
Washington, D. C.

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Review

A YEAR and a half has passed since the first public report on the activities of the Far Eastern Commission made its appearance.[1] That document summarized developments in the Commission from its inception on February 26, 1946, to July 10, 1947. During that year and a half a total of 41 formal decisions on matters relating to Allied policy for the occupation of Japan were adopted. Since July 10, 1947, 13 more policy decisions—some on matters previously reported as under discussion, some on issues not then mentioned—have been approved. Still other matters previously reported as under discussion have not as yet been finally settled by Commission action.

The broad policy objectives to which the work of the Far Eastern Commission must of necessity conform are set forth in the Potsdam Declaration. Roughly, they are three—disarmament, democratization, and the determination of a self-sustaining economy for Japan. Except for the Basic Post-Surrender Policy for Japan, which was a general statement of Allied policy covering a variety of points, Commission decisions previously reported have generally fallen under one or another of these three main headings. Disarmament, for example, although not yet the subject of a separate policy decision last year, was touched upon in the Basic Post-Surrender Policy. In addition, several decisions on reparations and economic matters had distinct disarmament implications in so far as they placed limitations on Japanese industrial capacity. With respect to democratization, the Commission's accomplishments included policies relating to Japan's new Constitution, educational reform, and the development of trade-union activity. Commission activity in the field of economic readjustment and recovery included an "interim" reparations removal program, the designation of the period 1930–34 as a yardstick for determining Japan's proper peacetime standard of living, and several policies looking toward the revival of Japanese trade. Outside the scope of these three main headings the Commission's work also touched on a number of miscellaneous subjects, including war criminals, aliens in Japan, and the prohibition of Japanese research in atomic energy.

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[1] *Activities of the Far Eastern Commission: Report by the Secretary General, February 26, 1946–July 10, 1947* (Department of State publication 2888).

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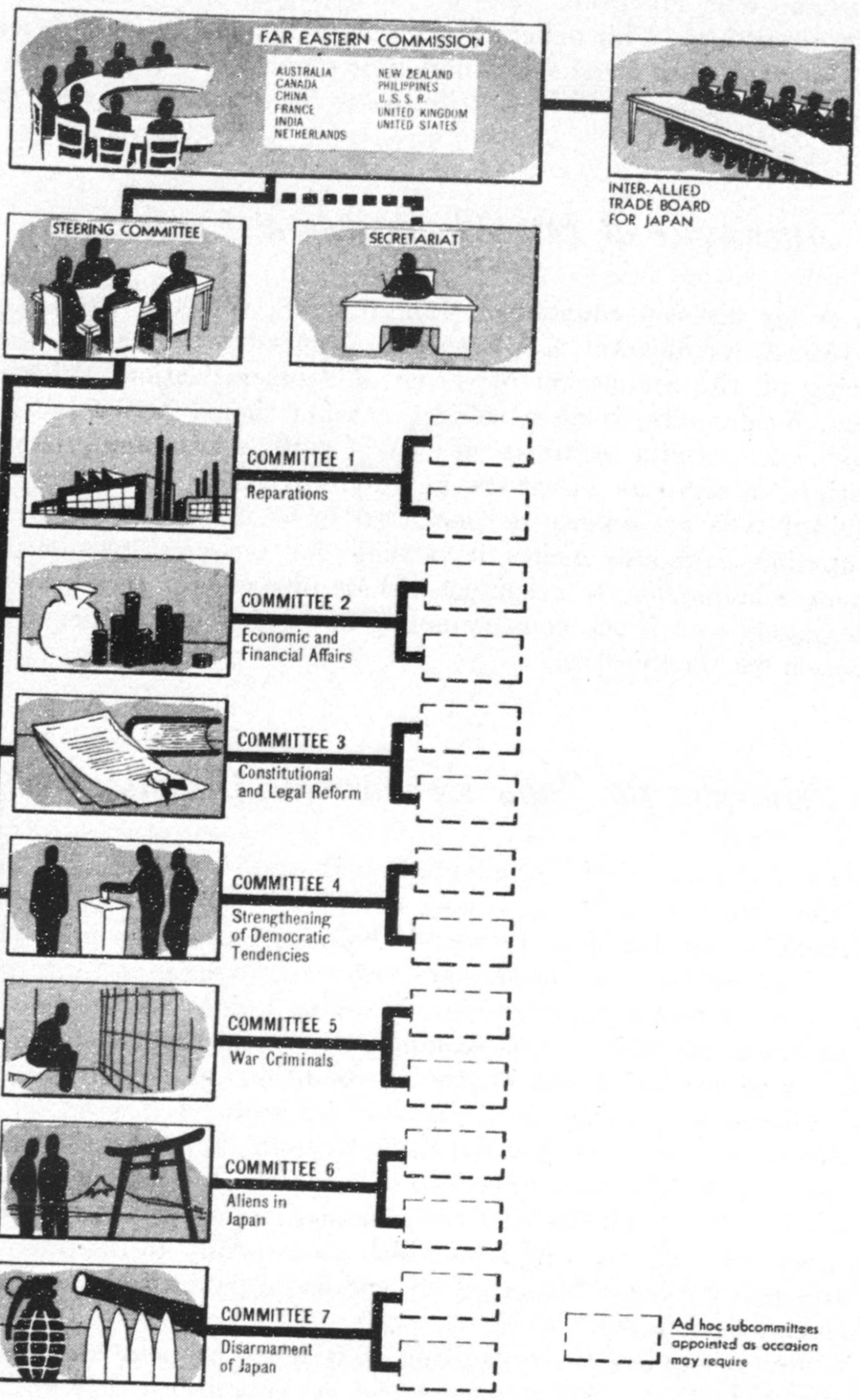
Also mentioned in a very general way in the earlier report were several subjects still under consideration; specifically, these included disarmament, reduction of industrial war potential, a revised policy on the restitution of looted property, percentage reparations shares, and peacetime levels for certain specified Japanese industries.

Disarmament of Japan

Of the 13 policies adopted by the Far Eastern Commission since July 1947, several represent agreement on subjects previously reported as under consideration. This is true in the case of disarmament, the first of the three major headings under which Commission action can still be most easily considered. A policy decision on disarmament, entitled "Prohibition of Military Activity in Japan and Disposition of Japanese Military Equipment," was adopted on February 12, 1948 (appendix 1). Under the terms of this decision, possession by Japanese of arms, ammunition, and implements of war is prohibited, except that the Supreme Commander for the Allied Powers (SCAP) may authorize the use of small arms by Japanese civil police agencies. In addition, the development, manufacture, or exportation of arms, ammunition, and implements of war is prohibited, and the importation of such items is restricted to the number and kind required by Japanese civil police. Manufacture of aircraft and naval vessels and reconversion of commercial vessels for military purposes are prohibited. Japan is forbidden any military or "para-military" organizations, including, of course, a ministry of war. Provisions against the subsequent revival of Japanese military activity are also included: any revival of the "Japanese Army, Navy, gendarmerie, secret police and their administrative organs" is banned, and military records are to be "confiscated and transferred to the Supreme Commander for the Allied Powers for subsequent destruction. No further records of this nature should be compiled or maintained by the Japanese." All organizations of a military or ultra-nationalistic nature are forbidden and their "revival or establishment in any form, including a disguised form," prohibited. This provision is intended to apply as well to "any other associations composed wholly or substantially of ex-officers of the Japanese Army and Navy and gendarmerie, ostensibly created for legitimate purposes, but which are, in reality, disguised forms of military or para-military organizations, or which have some other disguised subversive purpose." Military drills or similar training in schools are prohibited, and career officers are barred not only from public office but also from teaching, except in so far as SCAP may otherwise specifically authorize.

ORGANIZATION OF FAR EASTERN COMMISSION



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In connection with disarmament, mention might also be made of a policy adopted on August 14, 1947, on "Reduction of Japanese Industrial War Potential," another subject previously reported as under discussion. This policy, which will be handled in detail below, lays the framework for the destruction or reduction of those portions of Japan's industries which contributed to her war-making strength.

Attendance at Inter-Governmental Conferences

A policy decision adopted on June 9, 1948, entitled "Attendance at Inter-Governmental Conferences" (appendix 2) has a direct bearing on the occupation objective of democratization. This decision, incidentally, is on a subject not mentioned in the previous report. It permits members of SCAP's staff, upon appropriate invitation, to serve as observers at inter-governmental conferences, provided their attendance is considered to be in the interest of the occupation, and also makes it possible for technical personnel of Japanese nationality to accompany these observers if their presence is necessary and if the country acting as host to the conference in question has no objection.

Principles for Japanese Farmers' Organizations

A second policy decision, adopted on December 9, 1948, also bears on the objective of strengthening democratic tendencies. Entitled "Principles for Japanese Farmers' Organizations" (appendix 3), it specifies that Japanese farmers are to be "encouraged to form themselves into farmers' organizations, including unions and cooperatives of all kinds, for their mutual economic and social benefit, and for the purpose of preserving and improving conditions of agricultural work and otherwise assisting the legitimate interests of farmers." This policy further provides that Japanese farmers' organizations "should be assured of and encouraged to observe in the conduct of their operations the fundamental freedoms guaranteed" by the Constitution and that any existing laws which are contrary to the provisions of this policy "should be abrogated, and any organizations established thereunder abolished."

Under this policy the organizing of farmers' cooperatives is to be protected by law. When cooperatives are established they are to be free from any discriminatory taxation or restrictions on their economic activities, from any administrative control by organs of the Japanese Government, and from any special responsibility for the enforcement

of Government measures. The Government, on the other hand, should make available to cooperatives, where practicable, credit on reasonable terms, technical advisory services, and information on cooperative activities abroad.

Farmers' cooperatives should be democratically organized and operated, and Japanese should be free to choose the forms of organization of their cooperatives and should be encouraged to provide education for their members in the understanding of democratic processes. No person subject to "purge" directives or engaged in activities competitive with those of the cooperatives should be allowed to hold office in a cooperative. Steps should be taken "to prevent cooperatives becoming controlled by any banking, trade, industrial, or other non-farmer companies and interests."

The policy further provides that the principles already adopted by the Commission for Japanese Trade Unions [2] should, with necessary modifications, be applicable to farmers' unions.

Reduction of Japanese Industrial War Potential

With regard to the third main policy objective, determination of a peaceful and viable economy for Japan, several important decisions, some on matters previously reported under discussion, have been adopted during the year.

Mention has already been made of the policy "Reduction of Japanese Industrial War Potential" (appendix 4). Generally speaking the principal economic task of the occupation is to fix the productive capacity of Japan's major industries at a level which will prevent her from again becoming a threat to world peace but which is high enough to provide her with a viable peaceful economy. The decision on "Reduction of Japanese Industrial War Potential" was an important step forward in accomplishing this task.

The policy prescribes measures necessary to insure that Japan shall not retain industrial capacity for manufacture of armaments or capacity to provide a foundation on which armament industries could be quickly rebuilt. A distinction is made between industrial facilities which were directly engaged in the production of combat weapons (defined as "primary and secondary war facilities")—for example, arsenals and aircraft plants—and industries, such as iron and steel, light metals, automobiles, and synthetic rubber, which are capable of important military as well as peaceful uses (defined as "war-supporting industries"). Primary and secondary war facilities which are "functionally limited to use in connection with combat equip-

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[2] *Ibid.*, appendix 37.

ment end-products" are to be destroyed. The "war-supporting" industries which are listed in the policy are to be reduced to levels no greater than necessary to "meet the peaceful needs of the Japanese people." The policy further provides that primary and secondary war facilities and excess capacity in the war-supporting industries should, when it is not provided that they should be destroyed, be made available for removal as reparations.

After the reductions and removals provided for have been accomplished, any reestablishment of primary war industries is prohibited throughout the period of the occupation. This prohibition extends to the "manufacture or assembly of civil aircraft; and [to] the participation by the Japanese Government or Japanese nationals in the ownership or airborne operation of civil aircraft"; and also to "the building of merchant vessels above a size to be determined by the Far Eastern Commission." As far as war-supporting industries are concerned, however, there is a stipulation that in the case of seven specified industries[3] such peacetime levels as may separately be established will hold valid "until the end of the present phase of the occupation of Japan or until 1 October 1949, whichever is the earlier, pending a decision as to the long-term disarmament controls."

One other item in this important policy decision deserves mention. The Supreme Commander is given a general authorization "to except temporarily from the provisions of this paper particular primary war facilities, secondary war facilities and facilities in war-supporting industries, in so far as such facilities are required to meet the needs of the occupation."

Issues Awaiting Decision

As has been said above, the policy on reduction of industrial war potential was an important step forward, but it left several important decisions to be made. The most important is the determination of specific levels in the war-supporting industries. In a previous policy decision the Commission had selected the 1930–34 standard of living as the most appropriate by which to measure Japan's peaceful needs in 1950, by which year it was hoped economic conditions in Japan might approach the normal. It was proposed in this same policy decision to make an estimate of the nature and size of the industrial structure required to satisfy those needs, account being taken of such factors as technological developments, the balance of payments, and employment. With the adoption of the paper on "Re-

[3] Iron and steel, light metals, metal-working machinery, shipbuilding, oil refining and storage, synthetic oil, and synthetic rubber.

duction of Japanese Industrial War Potential," the Commission defined the particular war-supporting industries in which capacity in excess of that necessary to meet the peaceful needs of the Japanese people, as defined by the Far Eastern Commission, should be made available for removal as reparations. The task of determining actual capacity levels in these industries still remains to be completed.

As stated above, the policy also prohibits "building of merchant vessels above a size to be determined by the Far Eastern Commission." So far the Commission has not reached a decision on this matter.

Finally, though the policy provides that excess industrial facilities in Japan should be made available for removal as reparations, the completion of such removals awaits a decision on the shares which claimant countries are to receive.

Interim Import-Export Policies for Japan

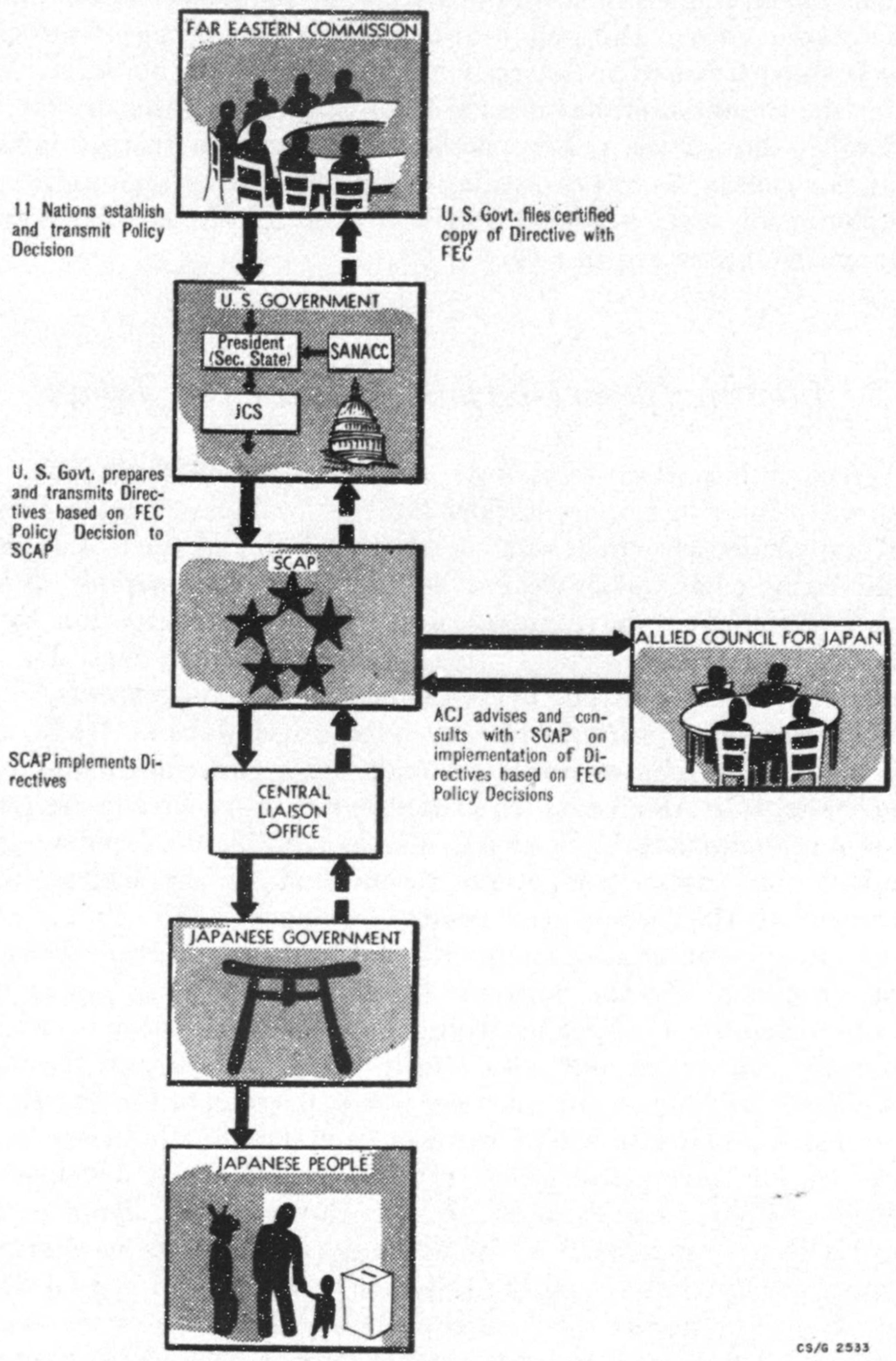
A second important economic decision adopted during the past year was "Interim Import-Export Policies for Japan," dated July 24, 1947 (appendix 5), which sets standards for the conduct of Japanese trade during what was envisaged as the "fairly short period" of trade on a government-to-government basis, before "participation by private individuals and corporations" becomes generally feasible. The policy supplements earlier decisions on imports and exports.[4]

SCAP was given administrative control over Japan's trade under this policy. Purchases would be made on a government-to-government basis, with Allied countries represented by specifically designated trade representatives.[5] SCAP was also responsible for Japanese goods available for export and could recommend to the United States Government which goods were needed for import. The United States Government after consultation with the Inter-Allied Trade Board for Japan would notify the Supreme Commander of those export items for the disposal of which he would be directly responsible, and the trade program when put into effect would contain only items the inclusion of which was not contrary to any decision of the Far Eastern Commission. Disposition of exports from Japan, the policy stated, "will be for currencies which are acceptable in accordance with policies established in accordance with the terms of reference of the Far Eastern Commission or in exchange for imports necessary for Japan." Only those imports needed to prevent "widespread disease and unrest" or needed to "accomplish the objectives of the occupation" were authorized under the policy; imports merely requested by the Japanese Government "are not authorized until it is possible to

[4] *Ibid.*, appendixes 32 and 33.
[5] *Ibid.*, appendix 34.

RELATIONS BETWEEN FEC AND SCAP

NORMAL PROCEDURE FOR POLICY DECISIONS



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appraise more accurately than can be done at present such factors as the comparative need of the Japanese economy for such imports, the foreign trade position of Japan, the amount of proceeds of exports required to pay for imports . . . and other costs of the occupation to be paid for by export surpluses." "Exports of textiles and other goods which are in world short supply," the policy stated, "should be stimulated to the maximum practical extent," and proceeds from all such exports must be used primarily to pay for necessary imports.

In this latter connection the policy included an important section which permits the Supreme Commander to use stocks of "gold, silver, other precious metals, precious stones and jewels of clearly established Japanese ownership . . . as a means of acquiring foreign exchange to aid in financing production programs designed to contribute to the revival of productivity in a Japanese peace economy." Although these assets "ultimately should be disposed of as reparations," they may, in the meantime, serve as the basis for a self-liquidating or "revolving" fund designed to aid in financing Japan's export-import trade.

Conduct of Trade With Japan

On November 18, 1948, the Commission adopted a policy entitled "Conduct of Trade With Japan" (appendix 6), which set forth further regulations governing trade with Japan and which, in virtually returning trade to private hands, largely supersedes the earlier interim import-export policy just discussed. This policy provides that Japanese foreign trade should be so conducted as to foster its development and balanced growth to a level consistent with Japan's peaceful needs as defined by the Far Eastern Commission and to encourage an increase in Japanese exports in order that these exports may pay for necessary imports and in order that Japan may participate in providing goods for international trade.

The policy also provides that Japan's trade should be so conducted as to insure competitive conditions and prevent the growth of monopolistic controls and excessive concentrations of economic power in Japan whether with the participation of Japanese or foreign capital. In addition, the policy provides for entrance into Japan and residence there of certain categories of persons engaged in trading activities which were heretofore excluded. These persons are to be given "opportunity for direct access to individual Japanese firms of their own choosing, and should have the opportunity to move freely in Japan." Additional provisions are included which guard against the establishment of discriminatory regulations or practices in the conduct of trade. The policy further provides that the Supreme Commander should not impose port charges on foreign vessels enter-

ing Japanese ports in so far as they are carrying occupation-force cargo or are engaged in the removal of reparations or restitution goods.

Travel Outside Japan of Japanese Commercial Representatives

A further policy relating to the conduct of Japanese trade, entitled "Travel Outside Japan of Japanese Commercial Representatives," was approved on October 21, 1948 (appendix 7). This policy provides for a limited resumption, under certain specified conditions, of Japanese private trade contacts by the travel of Japanese commercial representatives abroad. Specific travel authorized under the policy and the extent thereof would be "only that essential to raise Japan's foreign trade to a level consistent with her peaceful needs as defined by the Far Eastern Commission." Among other conditions governing such travel is the requirement that it be subject to the approval of the country of destination.

Revision of Restitution Policy

"Restitution of Looted Property", approved July 29, 1948, is another major Commission decision of the past year bearing on Japan's economy (appendix 8). As mentioned above, a revision of the earlier policy on restitution of looted property which "would liberalize the standards of identification and expand the categories of looted objects" had been reported to be under consideration.[6] The decision of July 29, 1948, constitutes that revision and hence supersedes the earlier policy. Restitution is now extended to include objects produced during the period in which Japan was occupying Allied countries. Certain principles to guide SCAP in "applying standards of identification with respect to claims for looted property" are also spelled out by the new policy, in particular one specifying that "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." A time limit of eight months is fixed in which claims may be filed with SCAP for specific items of looted property, although the Supreme Commander is granted a certain leeway

[6] *Ibid.*, p. 21 and appendixes 27 and 28.

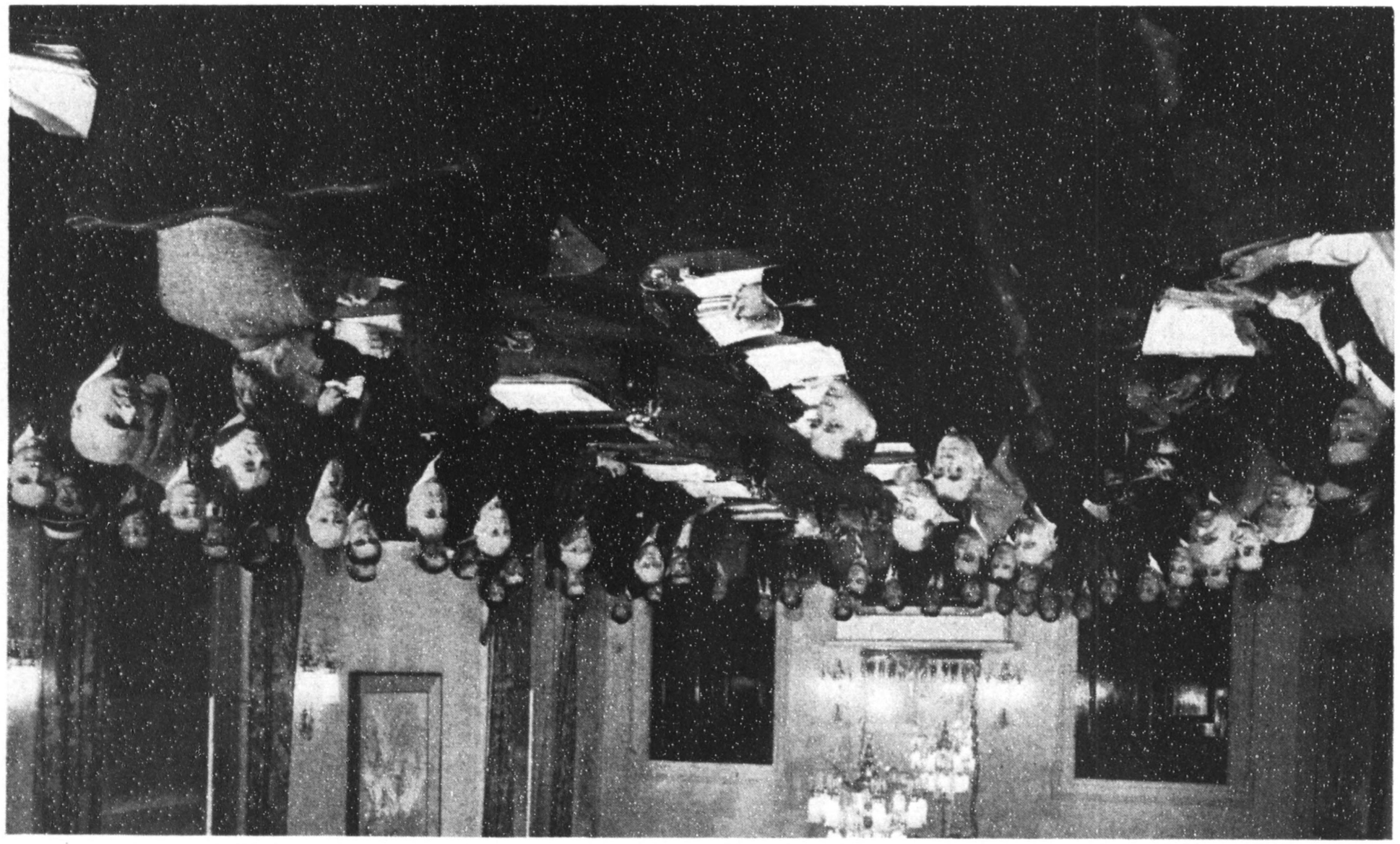
in extending this cut-off date under certain circumstances. Also included is a section authorizing the establishment of a restitution advisory agency, consisting of "one representative from each of the restitution and reparations teams in Japan of the eleven member countries of the Far Eastern Commission", whose function will be to advise SCAP on restitution matters; particularly in doubtful cases of identifying ownership. This committee is now actively functioning in Tokyo.

The one feature of the revised policy which bears most directly on Japan's economy, however, is the authority it gives SCAP to "liquidate" objects "known to have been looted but not identified pursuant to the terms of this paper" and to use the proceeds of such liquidations to establish a "secured fund" which may be used by him "as a basis for credit for the purposes of the occupation", subject to the condition that the initial value of the fund must be preserved. This fund is similar in purpose to the one provided for in "Interim Import-Export Policies for Japan", both being directed toward stimulating Japan's overseas trade. In liquidating unidentified property, incidentally, those countries which actually were looted by the Japanese—Australia, China, France, India, the Netherlands, the Philippines, and the Far Eastern territories of the United Kingdom—are given priority in purchasing items offered for sale. Not later than October 1, 1949, the secured fund thus established must be distributed among these countries in accordance with "their recognized national reparations percentage shares (adjusted to total 100%, applicable to this pool) of industrial assets available from within Japan." So far no determination has been reached as to what "national reparations percentage shares" will be.

Retention of Electric Steel Furnaces

Two other policy decisions of an economic character were approved by the Commission during the period. One, "Extension of Far Eastern Commission Policy on Temporary Retention of Electric Steel Furnaces," adopted on July 24, 1947 (appendix 9), extended for one year a previous authorization to the Supreme Commander to keep certain electric steel furnaces ultimately destined for removal as reparations under the "interim" program in operation temporarily for the purpose of the occupation. Earlier policies [7] had made such retention possible until July 31, 1947; the present policy extended this period of grace to June 30, 1948, "In view of the continued shortage of coal in Japan," but with the stipulation that the extension "should

[7] *Ibid.*, appendixes 21 and 22.



not postpone the designation of these facilities under the reparations removal program."

Food Supply for Japan

"Supply of Food for Civilian Consumption in Japan", approved December 11, 1947 (appendix 10), is the other economic policy not yet mentioned. A previous decision on the subject of food had been taken by the Commission in April 1946;[8] it stated that during the current world food shortage no imports of foods to Japan should be permitted "which will have the effect of giving to the Japanese a priority or preferential treatment over the requirements of the peoples of any Allied Power or liberated area". The subsequent decision reaffirmed this principle for "the present crop year (November 1, 1947–October 31, 1948)" and directed the Supreme Commander to take necessary measures both to obtain "maximum production of indigenous food" and to "ensure equitable distribution of indigenous food supplies by maintaining and improving the system of collection, rationing, and price control."

[8] *Ibid.*, appendix 35.

THE FAR EASTERN COMMISSION is shown on the opposite page in executive session at its one hundred and twenty-ninth meeting on November 24, 1948. The conference room is the grand salon of the former Japanese Embassy in Washington. The picture shows the representatives of the eleven member governments and certain members of the secretariat at the table. Other delegation and secretariat members are seated behind their respective representatives and at the rear of the room.

Reading left to right around table: Mr. Emilio Abello (Minister, Philippine Republic); H. E. Sir Carl Berendsen (Ambassador, New Zealand); Mr. O. Reuchlin (Minister, Netherlands); Mr. Rudolph Holtz (secretariat); Mr. S. N. Banerji (India); Mr. Jean Daridan (France); H. E. Dr. V. K. Wellington Koo (Ambassador, China); Mr. Carl H. Pfuntner (secretariat); Mr. R. E. Collins (Canada); H. E. Hon. N. J. O. Makin (Ambassador, Australia); Hon. Nelson T. Johnson (Secretary General); H. E. Maj. Gen. Frank R. McCoy (Chairman, United States); Mr. H. A. Graves (United Kingdom); H. E. Mr. Alexander S. Panyushkin (Ambassador, U.S.S.R.); Rear Admiral S. S. Ramishvili (U.S.S.R.); Mr. B. K. Sokolov (back to camera, U.S.S.R.); Mrs. M. Lazaerova (back to camera, U.S.S.R.).

Other Economic Issues

Two other important economic issues previously reported as under consideration—a schedule of reparations percentage shares and a determination of appropriate peacetime levels for specific Japanese industries—are, as we have already seen, both undetermined in the Far Eastern Commission.

Disposition of Occupation Court Fines

The three remaining policies approved since the appearance of the previous report fall into a miscellaneous category. The first of these, adopted on August 7, 1947, is entitled "Disposition of Funds Covering Fines Collected by Allied Military Occupation Courts" (appendix 11). It authorized military occupation courts to make use of such fines or other sums as they may collect to defray the costs of the Allied occupation. Money collected as fines "should be assigned to meet the occupation costs of the forces whose courts ordered payment to be made." Fines collected by military occupation courts set up in the area supervised by the British Commonwealth Occupation Forces (BCOF), for example, can thus be used to meet occupation expenses within the BCOF area itself.

Access to Japanese Technical and Scientific Information

The second miscellaneous policy is "Access to Japanese Technical and Scientific Information in Japan," adopted June 24, 1948 (appendix 12), giving technical representatives of governments who are members of the Far Eastern Commission "access to and the right to take copies of the details of any technical or scientific processes of industrial or commercial value which are of Japanese origin and ownership and which were developed prior to December 31, 1945." Access is limited, however, to the period from July 1, 1948, through March 31, 1949, and any information thus obtained must be "promptly and fully disclosed to SCAP for dissemination to other interested members of the Far Eastern Commission upon specific request."

Access to Japanese Technical and Scientific Information by Non-FEC Countries

The Far Eastern Commission on December 23, 1948, approved a policy extending the right of access to Japanese technical and scientific information to countries which were at war with Japan subsequent to December 1941 but which are not members of the Far Eastern Commission. This policy decision, "Access to Japanese Technical and Scientific Information by Non-FEC Countries at War With Japan" (appendix 13), provides for investigation of Japanese technical processes by non-FEC countries in so far as this is administratively practical and without prejudice to arrangements for FEC member nations in accordance with the policy adopted by the Commission on June 24, 1948, and referred to immediately above. The policy further provides that any technical or scientific information disclosed to SCAP under the terms of the policy decision of June 24 shall, upon request, be made available to non-FEC countries.

NELSON T. JOHNSON
Secretary General

WASHINGTON, D. C.
January 4, 1949

Appendixes

APPENDIX 1

Prohibition of Military Activity in Japan and Disposition of Japanese Military Equipment

[FEC Policy Decision, February 12, 1948]

Preamble

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

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1. *a.* For the purposes of this document, the term "military" is defined to mean "military, naval, and air," except where the context otherwise requires.

b. For the purpose of this document "Japanese Armed Forces" are defined to be all Japanese land, sea and air forces; Japanese military and para-military organizations, formations and units; gendarmerie and secret military police and their organized Japanese auxiliaries; together with the administrative organs of the armed forces mentioned above.

c. "Japanese military equipment" is defined as:

(1) All arms, ammunition, explosives, military equipment, stores and supplies and other implements of war of all kinds and any equipment, or other property whatsoever belonging to, used by, or intended for use by Japanese armed forces and Japanese-controlled armed forces or any members thereof.

(2) Naval combatant and auxiliary vessels and craft of all kinds, both surface and submarine, including those under repair, alteration, remodeling, reconstruction or construction, as well as those which were reconstructed for military purposes.

(3) All aircraft of all kinds, both military and civilian, aviation and anti-aircraft equipment and devices.

(4) All military naval and air installations and establishments,

including airfields, landing grounds and strips, seaplane bases, naval bases, military equipment of harbors, establishments engaged in military research, military storage depots, including underground depots, all equipment and facilities primarily used for military communication and transport, permanent and temporary land and coast fortification fortresses and other fortified areas, together with plans and drawings of all such fortifications, installations and establishments.

(5) Proving grounds and laboratories, all technical data, patents, plans, inventions and laboratory samples of weapons and means of war, including those which may be or have been under study, in the process of manufacture, finished or patented.

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

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

b. by licensed hunters of duly registered hunting weapons.

3. The development, manufacture, importation and exportation of arms, ammunition and implements of war, and materials intended for military use should be prohibited for Japan, except for the importation of no more than the quantities of arms and ammunition necessary for the purposes mentioned in paragraph 2.

4. The manufacture of aircraft of all kinds should be prohibited in Japan.

5. The construction of any naval combatant and auxiliary vessel or craft, the conversion of any commercial vessel or craft to military purposes, and the reconstruction or remodeling of commercial vessels or craft so as to render them more suitable for military purposes should be prohibited.

6. Military equipment seized from the former Japanese Armed Forces or from members of the Japanese civil populace should after examination be destroyed or scrapped except for:

a. Military equipment required for operational needs of the occupation forces or for the lawful activities of the Japanese civil police;

b. Items convertible to peacetime civilian uses; such equipment may be drawn upon for:

(1) The maintenance and subsistence of the occupation forces, prisoners of war, and nationals of Members of the United Nations;

(2) The relief of the local civil population to the extent necessary to prevent or alleviate epidemic or serious disease and serious unrest

which would endanger the occupying forces and the objectives of the occupation;

(3) Reparations, including such military equipment as:

(a) Plant and machinery for shipbuilding and nautical instruments other than those limited to purposes of an exclusively military nature,

(b) Diving gear,

(c) Optical glass,

(d) Chain and Chain cables,

(e) Machine tools convertible to peacetime uses,

(f) Military research facilities.

7. All former United Nations naval craft, equipment and facilities found in Japanese possession should be safeguarded and as soon as practicable should be delivered to the nations to which they belong at such points as may be designated by the Supreme Commander for the Allied Powers.

8. Japanese disarmed naval craft may be used for the purpose of repatriation or such other purposes connected with carrying out the terms of surrender as the Supreme Commander may direct.

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

10. Reestablishment of the following should be prohibited: the War and Navy Ministries, the Japanese Imperial High Command, the Supreme Military Council, the Council of Marshals and Admirals, the Inspectorate of Military Training, the Japanese Imperial General Headquarters, the Naval General Headquarters, the Headquarters of Armies and Fleets, and also any military or para-military organizations, military academies and schools, military scientific and research institutions and military laboratories, as well as the Officers Corps in any form. Such demobilization agency as is retained for the purpose of demobilizing returning Japanese Armed Forces should be of a civilian character and should be abolished immediately after completion of the demobilization. The former Japanese demobilization system involving special privileges of demobilized members of the Japanese armed forces should also be abolished.

11. All military and para-military organizations in Japan, including ex-officers' organizations, together with their affiliates and the clubs which were used for making propaganda for militarism and ultranationalism should be dissolved and their revival or establishment in any form, including a disguised form, should be prohibited. The application of this paragraph should extend also to various associa-

Appendix 1—Continued

tions created under the guise of production associations, such as co-operative societies for joint cultivation of land, for fishing, and others, which are composed wholly or substantially of ex-officers of the Army and Navy and gendarmerie and headed by their former military commanders. This paragraph should apply also to any other associations composed wholly or substantially of ex-officers of the Japanese Army and Navy and gendarmerie, ostensibly created for legitimate purposes, but which are, in reality, disguised forms of military or para-military organizations, or which have some other disguised subversive purpose.

12. Military training of the civilian population and military instruction in schools should be prohibited.

13. For the purpose of prevention of the revival of Japanese militarism persons who have at one time fallen within any of the following categories should not be nominated or employed in the government service, public office, or educational institutions except as they may be necessary in performing duties essential to the demobilization of repatriated military and naval personnel.

a. Generals, Admirals, and all other senior officers, and all career officers of the Army, Navy, and gendarmerie;

b. Other officers of the Army, Navy and gendarmerie, including members of the reserve, if their employment would harm the cause of peace and security; and

c. Officials of ex-officers' and other military and para-military associations and of bodies closely associated with the armed forces.

The Supreme Commander for the Allied Powers may authorize the nomination or employment of a person coming within categories *a* and *c* if his record shows that he has been an opponent of Japanese expansionism and totalitarianism.

14. All measures necessary should be undertaken to prevent any revival of the Japanese Army, Navy, gendarmerie, secret police and their administrative organs.

APPENDIX 2

Attendance at Inter-Governmental Conferences

[FEC Policy Decision, June 9, 1948]

The Far Eastern Commission decides as a matter of policy that:

1. Upon receipt of an appropriate invitation SCAP may appoint members of his staff as observers at inter-governmental conferences,

attendance at which he deems to be in the interest of the occupation.

2. Members of SCAP's staff attending an inter-governmental conference on invitation as provided in paragraph 1, may be accompanied by Japanese technical personnel when deemed necessary by SCAP, and when the attendance of Japanese personnel is acceptable to the country acting as host to the conference.

APPENDIX 3

Principles for Japanese Farmers' Organizations

[FEC Policy Decision, December 9, 1948]

GENERAL PRINCIPLES

1. Japanese farmers should be encouraged to form themselves into farmers' organizations, including unions and cooperatives of all kinds, for their mutual economic and social benefit, and for the purpose of preserving and improving conditions of agricultural work and otherwise assisting the legitimate interests of farmers.

2. Farmers' organizations and their members should be assured of and encouraged to observe in the conduct of their operations the fundamental freedoms guaranteed by Chapter III ("Rights and Duties of the People") of the Constitution of Japan.

3. Any existing laws or parts thereof which are contrary to the provisions stated in this policy should be abrogated, and any organizations established thereunder abolished.

4. This policy should be put into effect gradually, due regard being paid to the immediate economic needs of the country and the need to prevent avoidable dislocation of food control measures.

FARMERS' COOPERATIVES

5. Farmers' cooperatives should be a means whereby those who are actively concerned in obtaining their living by working on the land or in pursuits closely connected therewith can combine for their mutual advantage.

6. The right of farmers to organize themselves into cooperatives should be assured and protected by law and the freedom of farmers to join or abstain from joining cooperatives should be provided by law. Any farmers' cooperative should have the power to make rules admitting to membership any person who is not a genuine farmer,

Appendix 3—Continued

which rules may or may not exclude non-farmers from voting. Measures should be taken, however, to prevent cooperatives becoming controlled by any banking, trade, industrial, or other non-farmer companies and interests.

7. Farmers' cooperatives should not be subject to any adversely discriminatory taxation, nor to any discriminatory restrictions upon their engaging in any economic activity related to their own agricultural pursuits and for the benefit of members.

8. Farmers' cooperatives should be subject to the laws relating to juridical persons, but should not, in their internal management and operation, be subject to any control, interference, or supervision by any administrative organ of the Japanese Government, nor should they be subject to dissolution by administrative order. Where it is alleged that cooperatives have violated the law, or their articles of incorporation or by-laws, remedial action should be sought and taken through the courts of law and not through government decree or administrative decision.

9. Farmers' cooperatives should be free from any obligation to take part in, or from any responsibility for, the enforcement of government measures, except that they should comply with government measures to the same extent as any other Japanese national or organization under Japanese Government jurisdiction.

10. Farmers' cooperatives should be encouraged and assisted by the Japanese Government in providing education for their members, both generally in an understanding of democratic processes and particularly in cooperative practices and agricultural techniques. The Japanese Government should, as far as possible, assist cooperative officials in obtaining information on cooperative activities in other countries. These objectives should be given due weight when allocations of paper supplies and import of foreign publications are made.

11. Japanese should be free to choose the forms of organization of their cooperatives. Cooperatives should be allowed to associate themselves in regional or national bodies, with representation in such bodies in proportion to the membership of the individual cooperatives. Emphasis, however, should be placed on the importance of a solid local basis for the future of cooperative activity in Japan.

12. The director and officials, other than administrative officers, of farmers' cooperatives should be elected at regular stated intervals by the farmers concerned by secret ballot and democratic methods. Each member should have one vote. It should be the responsibility of the cooperatives to ensure that all their activities are democratically conducted.

13. No member should hold office in a cooperative if (1) he is engaged in activities which are likely substantially to compete with

the activities of the cooperative, or (2) he is subject to the purge directive of January 4, 1946, or subject to subsequent purge directives by the Supreme Commander for the Allied Powers.

14. The Japanese Government, in so far as practicable, should make available to farmers' cooperatives technical advisory and other services and should ensure that credit is available to them on reasonable terms.

15. Farmers' cooperatives should be encouraged to participate in voluntary measures to promote the objectives of the occupation.

FARMERS' UNIONS

16. The Principles for Japanese Trade Unions should, with the necessary modifications, be applicable to farmers' unions.

APPENDIX 4

Reduction of Japanese Industrial War Potential

[FEC Policy Decision, August 14, 1947]

1. SUMMARY

Subject to the provisions stated in paragraph 10, the following actions, as detailed in paragraphs 2–9, should be taken during the period of the occupation, in order to reduce Japanese industrial war potential:

a. All special purpose industrial machinery and equipment functionally limited to use in connection with combat equipment end-products, should be destroyed.

b. All other industrial machinery and equipment in primary war industries, and such other industrial facilities in secondary war industries and war-supporting industries as may be in excess of the peaceful needs of the Japanese economy should be made available for claim as reparations.

c. During the period of the occupation, a prohibition should be maintained against the re-establishment of primary war industries; and specified war-supporting industries should be limited to the productive capacity levels remaining after completion of the reduction program outlined above, except as modifications in these levels may be authorized by the Far Eastern Commission.

Appendix 4—Continued

2. PRIMARY WAR FACILITIES

a. Definitions:

(1) *Primary War Facilities* are defined as plants and establishments primarily engaged in the development, manufacture, assembly, testing, repair, maintenance, or storage of combat equipment end-products and civil aircraft, and plants and establishments building merchant vessels above a size to be determined by the Far Eastern Commission.

(2) *Combat Equipment End-Products* are defined as weapons, ammunition, missiles and explosives used for military purposes; chemical or bacterial warfare agents; ultra-shortwave radio equipment (radar); naval combatant vessels; armored vehicles; or aircraft (including air frames and aircraft engines).

b. Dispositions:

(1) All firms and organizations, whether publicly or privately owned and operated, whose activities have related primarily to the operation of primary war facilities and whose continued existence is deemed by the Supreme Commander for the Allied Powers to be undesirable from a security standpoint, should be dissolved by the Supreme Commander, who should at the same time seize their records and register all their key executive, managerial, research and engineering personnel.

(2) All plants and establishments identified by the Supreme Commander as primary war facilities should be impounded, and their machinery and equipment made available for reparations, subject to the following limitation: All buildings, machinery, and equipment in primary war facilities which, by virtue of initial design, construction, or major structural change, are, as individual items, special purpose in nature and functionally limited to use in connection with combat equipment end-products should be destroyed.

3. SECONDARY WAR FACILITIES

a. Definition:

Secondary War Facilities are defined as plants and establishments primarily engaged in manufacturing, repairing or maintaining major fabricated component parts, sub-assemblies, accessories, or equipment especially designed for use in the products of primary war facilities.

b. Disposition:

(1) In plants and establishments identified by the Supreme Commander as being originally organized or completely reequipped

to operate as secondary war facilities, as defined in sub-paragraph *a* above, all machinery and equipment, except as noted under (3) below, should be made available for reparations.

(2) In plants and establishments other than those covered in (1) above, all machinery and equipment, except as noted under (3) below, should be disposed of under the recommendations in paragraph 5 covering the industry with which, in the opinion of the Supreme Commander, they were associated prior to their conversion or diversion to war production.

(3) All buildings, machinery, and equipment in secondary war facilities which by virtue of initial design, construction, or major structural change are as individual items special purpose in nature and functionally limited to use in connection with combat equipment end-products should be destroyed.

4. DISPERSED MACHINERY AND EQUIPMENT FROM PRIMARY AND SECONDARY WAR FACILITIES

All special purpose machinery and equipment, as defined under 2 *b* (2) and 3 *b* (3) above, should be sought out in locations to which they may have been removed from primary and secondary war facilities, and should be destroyed wherever found. Other machinery and equipment which was formerly used in primary and secondary war facilities but subsequently dispersed, need not be sought out and identified under the provisions of this paragraph but should be treated under paragraph 5, as a part of the industry with which it is associated.

5. WAR-SUPPORTING INDUSTRIES

a. Over-All Policy

As a supplementary measure designed further to reduce Japan's industrial war potential, that portion of existing capacity in selected war supporting industries which is in excess of that necessary to meet the peaceful needs of the Japanese people, as defined by the Far Eastern Commission, should be made available for removal as reparations.

b. Application

(1) The following specific industries are considered as being "war-supporting," for purposes of the industrial removals provided for in paragraph 5 *a*:

(a) The iron and steel industry, producing pig iron, steel ingots and basic shapes

(b) The coal carbonization industry

Appendix 4—Continued

(c) The non-ferrous metals industry, producing pig, ingot and basic shapes

(d) The light metals industry, producing alumina, primary aluminum and magnesium, rolled, drawn or extruded shapes

(e) The metal-working machinery industry, producing machine tools, cutting tools and secondary metal working machinery

(f) The ball and roller bearing industry

(g) That part of the chemical industry producing industrial explosives, sulfuric acid, soda ash, caustic soda, chlorine, chemical nitrogen and calcium carbide (In the case of industrial explosives "capacity which is in excess of that necessary to meet the peaceful needs of the Japanese people" is defined as capacity which is in excess of that necessary to meet Japanese domestic requirements)

(h) The railway equipment industry

(i) The automotive industry

(j) The electric power industry

(k) The cement and abrasives industries

(l) The steel merchant shipbuilding and repair industry (residual after removals affected under paragraph 2)

(m) The merchant marine, fishing, whaling and cannery fleets, including publicly and privately owned steel vessels of 100 tons or over (this shall not be interpreted to prevent vessels of less than 100 tons being considered for reparations)

(n) The oil refining and synthetic fuel industry and storage

(o) The synthetic rubber industry

(p) The heavy electrical equipment industry

(2) In addition to reduction in capacity in the specific industries listed above, a further reduction in the total inventory of metal-working machinery in Japan should be effected in so far as this may be required to eliminate metal-working capacity in excess of the peaceful needs of the Japanese people as defined by the Far Eastern Commission.

6. RESIDUAL CAPACITY

After the Supreme Commander for the Allied Powers has completed the selection for delivery to claimant countries of industrial plants or facilities within the categories of industry approved for removal as reparations by the Far Eastern Commission, and, after the destruction of special purpose machinery, as defined in paragraphs 2 and 3, residual productive capacity in the industries designated in this paper which is in excess of Japan's peaceful needs, as defined by the Far Eastern Commission, should be appraised from the standpoint of the individual and collective war potential represented by this capacity,

and a decision made by the Far Eastern Commission as to its disposition.

7. PROPERTY OF NATIONALS OF MEMBERS OF THE UNITED NATIONS

The property of nationals of members of the United Nations should be dealt with in accordance with Far Eastern Commission policy decision, "Destruction or Removal of United Nations Property in Japan" (approved 24 April 1947 and transmitted to the Supreme Commander for the Allied Powers as Directive Serial No. 76 on 2 May 1947):

8. REPARATIONS

Removal or destruction of industrial capacity for security purposes under the terms of this policy should not be limited in order to compensate for the effects of industrial removals for reparations.

9. POST-REMOVAL RESTRICTIONS ON JAPANESE INDUSTRIAL CAPACITY

Throughout the period of the occupation the following limitations of Japanese industrial capacity should be maintained.

a. Primary War Facilities:

Within the framework of the definitions given in paragraphs 2 and 3:

(1) The following should be prohibited in Japan: The establishment, possession or operation of any facilities for the development, manufacture or assembly of combat equipment end-products; the development, manufacture, assembly, importation or possession of any special purpose machinery and equipment as defined under paragraphs 2 *b* (2) and 3 *b* (3); the development, manufacture or assembly of any combat equipment end-products, or their possession except as authorized by the Supreme Commander, after consultation with the Allied Council for Japan in accordance with the Terms of Reference of the Allied Council for Japan, for the purposes of the occupation; the building of merchant vessels above a size to be determined by the Far Eastern Commission; the development, manufacture or assembly of civil aircraft; and the participation by the Japanese Government or Japanese nationals in the ownership or airborne operation of civil aircraft.

(2) Japan should be directed to prohibit any of its nationals from taking part in the ownership or operation of primary war facilities outside of Japan.

Appendix 4—Continued

b. War-Supporting Industries

The capacity levels remaining in the iron and steel, light metals, metal-working machinery, shipbuilding, oil refining and storage, synthetic oil and synthetic rubber industries, after the completion of the industrial removals proposed in this paper and after the disposition of remaining "excess" facilities as provided for under paragraph 6, should constitute the permissible maxima in these industries until the end of the present phase of the occupation of Japan or until 1 October 1949, whichever is the earlier, pending a decision as to the long-term disarmament controls. These maxima should be subject to review by the Far Eastern Commission, and, if the Commission expects still to be charged on 1 October 1949 with responsibility for post-surrender policies respecting Japan, the Commission should assess the situation before that date with a view to the adoption of an appropriate policy to be put into effect on 1 October 1949, on which date the provisions herein specified regarding productive capacity maxima in these industries will lapse. If, at any time during the occupation, the Supreme Commander considers an adjustment in these levels necessary, he should, after consultation with the Allied Council for Japan in accordance with the Terms of Reference of the Allied Council for Japan in accordance with the Terms of Reference of the Allied Council for Japan, recommend such an adjustment and submit to the Far Eastern Commission appropriate supporting data. Changes in the established levels can be made after adoption by the Far Eastern Commission of a policy decision authorizing such a change.

10. OCCUPATION NEEDS

The Supreme Commander should be authorized to except temporarily from the provisions of this paper particular primary war facilities, secondary war facilities and facilities in war-supporting industries, in so far as such facilities are required to meet the needs of the occupation. In such cases the Supreme Commander will after consultation with the Allied Council for Japan in accordance with the Terms of Reference of the Allied Council for Japan provide an explanation of reasons for retention and an estimated date of removal or destruction.

11. RECORDS OF PROPERTY REMOVALS AND DESTRUCTION

The Supreme Commander should keep records of all property removed from Japan or destroyed in the execution of the policies in this paper.

12. The provisions of this policy decision will apply until an appropriate decision on this question by the Peace Conference.

APPENDIX 5

Interim Import-Export Policies for Japan

[FEC Policy Decision, July 24, 1947]

I. LONG-RANGE POLICY OBJECTIVES

1. As soon as possible participation by private individuals and corporations in Japanese foreign trade will be authorized. The policies set forth in this statement, therefore, should be regarded as applying to a fairly short period.

II. INTERIM CONTROLS

2. All imports to and exports from Japan will take place exclusively under the direct control of the Supreme Commander for the Allied Powers acting in accordance with the policies formulated by the Far Eastern Commission or policies established in accordance with its terms of reference. For the present no government or individual will have contact with the Japanese Government or Japanese individuals except as authorized by the Supreme Commander.

3. The Japanese Government subject to the supervision of the Supreme Commander will be responsible for:

a. Internal operations necessary to inspection, purchase, collection, and storage of goods for export, and the delivery of these goods to designated ports;

b. Custody, sale and distribution of imported goods within Japan;

c. Provision of all funds and conduct of internal financing arrangements necessary to these operations.

4. External purchases and sales will be on a government-to-government basis. The Japanese Government or its agent will make all sales and purchases and will guarantee title. Transactions should be carried out on behalf of the other governments by their trade representatives in Japan with the Japanese Government or its agents and should conform to general conditions determined by the Supreme Commander for the Allied Powers or alternatively, in respect of particular transactions to special conditions agreed with him. The purchaser from or seller to Japan will be a government agency or, if a nongovernment firm, the transaction must be arranged for by an official trade representative who will take responsibility for the transaction.

5. The provisions of this section should not be taken to prevent the resumption of private trade.

Appendix 5—Continued

III. DEVELOPMENT OF AN IMPORT-EXPORT PROGRAM

6. The Supreme Commander for the Allied Powers will be responsible for ascertaining the types and amounts of goods available for export, and for recommending the types and amounts of goods to be imported. The trade program developed and recommended by the Supreme Commander will be reviewed by the U. S. Government, and forwarded to the Far Eastern Commission and the Inter-Allied Trade Board for consideration in accordance with their respective terms of reference. The trade program when put into effect will contain only such items the inclusion of which are not contrary to any decision of the Far Eastern Commission.

7. The Supreme Commander will be notified by the United States Government, after consultation with the Inter-Allied Trade Board, of those export items for the disposal of which he will be directly responsible. In dealing with these he will be guided by the policies formulated by the Far Eastern Commission, or policies established in accordance with its terms of reference, relating to the destinations of exports and the terms of their sale. In the remaining cases the United States Government, after consultation with the Inter-Allied Trade Board, will reserve to itself the determination of allocations which will be notified to the Supreme Commander in due course. The disposition of exports will be for currencies which are acceptable in accordance with policies established in accordance with the terms of reference of the Far Eastern Commission or in exchange for imports necessary for Japan.

8. The Supreme Commander should make available to the Far Eastern Commission monthly returns showing completed imports and exports, and quarterly returns showing planned imports and exports and the state of Japan's balance of payments classified according to currencies.

IV. IMPORTS

9. For the purpose of this paper imports are divided into the following three categories:

a. Imports required to prevent such widespread disease and unrest as would endanger the occupying forces;

b. Imports required to accomplish the objectives of the occupation;

c. Other imports requested by the Japanese Government.

10. For the time being import programs under categories 9 *a* and *b* are authorized subject to availability of items and funds and such other limitations as may be operative. Category 9 *c* imports are not authorized until it is possible to appraise more accurately than can

be done at present such factors as the comparative need of the Japanese economy for such imports, the foreign trade position of Japan, the amount of proceeds of exports required to pay for imports under *a* and *b* above, and other costs of the occupation to be paid for by export surpluses.

11. The commodity requirements for prevention of disease and unrest and to accomplish the objectives of the occupation will be met to the maximum extent by indigenous resources and to the minimum extent by imports.

V. EXPORTS

12. For the present no fixed capital goods or equipment, except that which results from current production, should be exported to pay for imports.

13. Export industries should not be developed when the character of such industries would contribute significantly to the maintenance or development of Japan's war-making potential or if they would promote dependence of other countries on Japan for strategic products. Exports of textiles and other goods which are in world short supply, especially in Asiatic countries, should be stimulated to the maximum practicable extent.

14. The proceeds of exports resulting from current production inclusive of current production of gold or other precious metals will be used in the first instance to pay for both past and current imports under categories 9 *a* and *b*.

15. The proceeds of exports of stocks of materials not subject to restitution in accordance with the Far Eastern Commission policy shall also be used in the first instance to pay for imports.

16. Stocks of gold, silver, cultural objects and other precious metals, precious stones and jewels should be disposed of as follows:

a. Cultural objects, produced prior to September 1, 1945, should not be exported.

b. Stocks of gold, silver, precious metals looted from occupied areas should be treated in accordance with Far Eastern Commission policy and pending establishment of a new restitution policy, items known to have been looted or probably looted, should not be exported from Japan.

c. Stocks of gold, silver, other precious metals, precious stones and jewels of clearly established Japanese ownership ultimately should be disposed of as reparations. In the meantime, values of such Japanese assets should be preserved, but such assets themselves may be used as a means of acquiring foreign exchange to aid in financing production programs designed to contribute to the revival of productivity in a Japanese peace economy. In case of export of the

Appendix 5—Continued

above-mentioned assets equal opportunity to acquire these assets in return for acceptable currency should be granted to all member countries of the Far Eastern Commission.

APPENDIX 6

Conduct of Trade With Japan

[FEC Policy Decision, November 18, 1948]

1. In so far as is compatible with the Basic Post Surrender Policy for Japan [approved 19 June 1947, and forwarded to the Supreme Commander on 26 June 1947], and other policy decisions of the Far Eastern Commission, including this policy decision, Japan's foreign trade should be so conducted as to:

a. foster the development and balanced growth of Japanese foreign trade to a level consistent with Japan's peaceful needs as defined by the Far Eastern Commission;

b. encourage an increase in Japanese exports:

(1) in order that these exports may, as soon as possible, pay for the imports required for the prevention of disease and unrest within Japan, and for the reestablishment of a self-sustaining economy; and

(2) in order that Japan may participate in providing goods for international trade;

c. insure competitive conditions in trade free of contracts or arrangements which limit access to markets or foster monopolistic controls, and prevent excessive concentration of economic power in Japan and monopolies in Japanese foreign trade, whether with the participation of Japanese or foreign capital.

2. In addition to Allied trade representatives whose entry into Japan has been or may be approved consequent upon policy decisions of the Far Eastern Commission, persons in the following categories should be permitted to enter and reside in Japan in accordance with regulations established by the Supreme Commander for the Allied Powers:

a. Merchants and other traders (including representatives of commercial organizations, Governmental or otherwise) who are prepared to purchase or to make arrangements for future purchases of potential exports, or to provide raw materials or other commodities which Japan must import;

b. Representatives of banks, insurance companies, airlines, shipping and other companies who are prepared to render necessary services in connection with Japan's foreign trade either to private non-Japanese businessmen, to the Supreme Commander for the Allied Powers, or to Japanese persons or agencies approved by him;

c. Representatives of companies or individuals who had prewar property interests in Japan, the renewed operation of which would contribute to the accomplishment of the objectives in paragraph 1;

d. Representatives of companies or individuals who had substantial prewar property interests in Japan, for the purpose of inspection of those interests.

3. Nothing in this policy decision is to be understood as requiring the reopening or operation of factories in Japan.

4. There should be no discrimination against any foreign trade representatives or businessmen in Japan and all should be accorded equality of opportunity to transact business. Accommodations should be allocated to such persons entering Japan under the provisions of this policy decision on an impartial basis.

5. Yen acquired by foreign nationals through activities envisaged in this policy should be usable for local expenditures in accordance with laws and regulations enforced in Japan.

6. The Supreme Commander for the Allied Powers may impose port and service charges upon foreign vessels entering Japanese ports for commercial purposes with the exceptions enumerated below:

a. No port charges should be imposed on vessels entering Japanese ports in so far as they are carrying occupation force cargo or are engaged in the removal of reparations or restitution goods. Where vessels are also engaged at the same time in normal commercial operations, port charges should be imposed in proportion to the bulk of commercial cargo carried.

b. All port charges on commercial vessels as well as the services rendered to commercial vessels in Japanese ports should be subject to appropriate and nondiscriminatory payment in any foreign exchange useful for the purchase of imports for Japan or in local currency, in accordance with laws and regulations enforced in Japan.

7. The persons referred to in paragraph 2 should be afforded opportunity for direct access to individual Japanese firms of their own choosing, and should have the opportunity to move freely in Japan subject only to availability of transport and accommodations. Any regulations pertaining to the participation of firms or government agencies, whether Japanese or foreign, in foreign trade should be nondiscriminatory in character and confined to measures essential to achieving the principles and objectives set forth in this policy and

should be based upon criteria established by and under the supervision of SCAP.

8. Foreign trade may be conducted by the Japanese Government or agency thereof to the extent deemed by the Supreme Commander for the Allied Powers to be necessary for the purpose of maximizing export proceeds or for other purposes, consistent with the principles and objectives stated in this policy.

9. An exchange rate for the yen should be established as soon as practicable.

APPENDIX 7

Travel Outside Japan of Japanese Commercial Representatives

[FEC Policy Decision, October 21, 1948]

1. During the period of the occupation it is recognized that the operation of the private trade of Japan with other countries must be conducted largely through foreign nationals traveling or residing in Japan. However, in order to widen the scope of trade and to further the policy of preventing Japanese monopolies in foreign trade, a limited resumption of private trade contacts by the travel of Japanese commercial representatives abroad may, subject to the approval of the country of destination, be permitted under the following conditions:

a. Such travel should give Japanese no advantage over foreign nationals doing business with or in Japan. To this end foreign nationals in Japan should be given maximum freedom to develop trade, subject only to the economic controls required by reason of the occupation. Such controls should apply equally to Japanese and foreign nationals.

b. Japanese commercial representatives abroad should not be the sole sales or purchasing medium for Boeki Cho or for Japanese trade associations nor should they be allowed to be official representatives of SCAP.

c. The specific travel authorized herein and the extent thereof should be only that essential to raise Japan's foreign trade to a level consistent with her peaceful needs as defined by the Far Eastern Commission.

d. The activities of Japanese commercial representatives abroad should be confined to trade. They should not be a cover for other activities such as for instance those of a political or propaganda nature.

e. Japanese commercial representatives should be carefully

screened by the Supreme Commander for the Allied Powers before they are allowed to leave Japan.

2. Such Japanese travel abroad shall be under such conditions and controls as may be specified by the Supreme Commander for the Allied Powers and the country of destination. Subject to over-all supervision by the Supreme Commander for the Allied Powers, the Japanese Government, or any authorized agency thereof, will be responsible for the conduct of any Japanese commercial representatives permitted to travel abroad under this policy.

APPENDIX 8

Restitution of Looted Property

[FEC Policy Decision, July 29, 1948]

1. This policy supersedes the Far Eastern Commission policy decision on Restitution of Looted Property approved 18 July 1946, as amended by the policy decision on Restitution of Looted Property approved 10 October 1946, and also supersedes the U. S. directive on Disposition of Captured Japanese Merchant Vessels filed with the Far Eastern Commission on 24 May 1946.

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 con-

Appendix 8—Continued

clusive 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 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:

a. Industrial and transportation machinery and equipment;

Appendix 8—Continued

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.

APPENDIX 9

Extension of Far Eastern Commission Policy on Temporary Retention of Electric Steel Furnaces

[FEC Policy Decision, July 24, 1947

1. In view of the continued shortage of coal in Japan, the authorization granted in Interim Reparations Removals: Temporary Retention of Electric Steel Furnaces, (approved by the Far Eastern Commission on 6 December 1946, and forwarded to SCAP on 13 December 1946) to retain in Japan up to 30 June 1947, electric steel furnaces in excess of the 100,000 metric tons annual capacity referred to in Interim Reparations Removals: Iron and Steel Industry, etc., (approved 12 June 1946, and forwarded to SCAP on 15 June 1946) together with the rolling mill capacity integrated with such electric furnaces, to a maximum of an additional 300,000 metric tons annual capacity, is hereby extended until 30 June 1948.

2. The above policy should not postpone the designation of these facilities under the reparations removal program.

APPENDIX 10

Supply of Food for Civilian Consumption in Japan

[FEC Policy Decision, December 11, 1947]

1. The Far Eastern Commission, having considered the question of the supply of food for civilian consumption in Japan in the light of

a. the measures already taken by the Supreme Commander since the beginning of the occupation to improve Japan's production and distribution of indigenous food; and

b. the acute shortage of food which is not confined to Japan, but is causing serious hardship in countries which suffered as a result of Japanese aggression

Appendix 10--Continued

hereby adopts the following policies with respect to this matter.

2. The Supreme Commander should ensure, by all practicable means, that the Japanese Government take the necessary measures

a. to attain the maximum production of indigenous food; and

b. to ensure equitable distribution of indigenous food supplies by maintaining and improving the system of collection, rationing, and price control.

3. In view of the acute world shortage, imports of food for Japan during the present crop year (November 1, 1947–October 31, 1948) should be the minimum required to prevent such starvation and widespread disease and civil unrest as would endanger the safety of the occupation forces, and no imports exceeding this minimum should be permitted which would have the effect of giving preferential treatment to the Japanese over the peoples of any Allied Power or liberated area.

4. The Far Eastern Commission recommends to its member governments that they take all steps within their power to assist the implementation of this policy.

APPENDIX 11

Disposition of Funds Covering Fines Collected by Allied Military Occupation Courts

[FEC Policy Decision, August 7, 1947]

The Far Eastern Commission decides as a matter of policy the following:

Since the military occupation courts which have been appointed by order of the Supreme Commander for the Allied Powers in Japan partake of an international character, any fines imposed or other sums collected pursuant to orders made by such courts should be used in defraying the costs of the Allied occupation. All such moneys should be entered in a separate account and should be assigned to meet the occupation costs of the forces whose courts ordered payment to be made.

APPENDIX 12

Access to Japanese Technical and Scientific Information in Japan

[FEC Policy Decision, June 24, 1948]

During the period from 1 July 1948 through 31 March 1949, technical representatives of the Governments of members of the Far Eastern Commission should be permitted access to and the right to take copies of the details of any technical or scientific processes of industrial or commercial value which are of Japanese origin and ownership and which were developed prior to 31 December 1945.

Technical or scientific information obtained by any representative of the government of a member of the Far Eastern Commission pursuant to this policy statement should be promptly and fully disclosed to SCAP for dissemination to other interested members of the Far Eastern Commission upon specific request.

APPENDIX 13

Access to Japanese Technical and Scientific Information by Non-FEC Countries at War With Japan

[FEC Policy Decision, December 23, 1948]

1. SCAP may, insofar as it proves administratively practical, and without prejudice to arrangements for FEC member nations in accordance with the principles established in "Access to Japanese Technical and Scientific Information in Japan", approved by the Far Eastern Commission on 24 June 1948 and forwarded to the Supreme Commander on 1 July 1948, permit investigation of Japanese technical processes by non-FEC countries at war with Japan subsequent to 7 December 1941.

Any technical or scientific information thus obtained should be promptly and fully disclosed to SCAP. Such information should be disseminated by SCAP in response to specific requests.

2. Technical or scientific information disclosed to SCAP in accordance with paragraph 2 of "Access to Japanese Technical and Scientific Information in Japan"[1] should, upon specific request, be made available to non-FEC countries at war with Japan subsequent to 7 December 1941.

[1] Appendix 12.

DECLASSIFIED BY PA/HO SEC. 3(E) AND 3(D) OR (E) MNEC 775 012

APPENDIX 14

Proclamation Defining Terms for Japanese Surrender

[POTSDAM DECLARATION]

[July 26, 1945]

(1) We—the President of the United States, the President of the National Government of the Republic of China, and the Prime Minister of Great Britain, representing the hundreds of millions of our countrymen, have conferred and agree that Japan shall be given an opportunity to end this war.

(2) The prodigious land, sea and air forces of the United States, the British Empire and of China, many times reinforced by their armies and air fleets from the west, are poised to strike the final blows upon Japan. This military power is sustained and inspired by the determination of all the Allied Nations to prosecute the war against Japan until she ceases to resist.

(3) The result of the futile and senseless German resistance to the might of the aroused free peoples of the world stands forth in awful clarity as an example to the people of Japan. The might that now converges on Japan is immeasurably greater than that which, when applied to the resisting Nazis, necessarily laid waste to the lands, the industry and the method of life of the whole German people. The full application of our military power, backed by our resolve, *will* mean the inevitable and complete destruction of the Japanese armed forces and just as inevitably the utter devastation of the Japanese homeland.

(4) The time has come for Japan to decide whether she will continue to be controlled by those self-willed militaristic advisers whose unintelligent calculations have brought the Empire of Japan to the threshold of annihilation, or whether she will follow the path of reason.

(5) Following are our terms. We will not deviate from them. There are no alternatives. We shall brook no delay.

(6) There must be eliminated for all times the authority and influence of those who have deceived and misled the people of Japan into embarking on world conquest, for we insist that a new order of peace, security and justice will be impossible until irresponsible militarism is driven from the world.

(7) Until such a new order is established *and* until there is convincing proof that Japan's war-making power is destroyed, points in Japanese territory to be designated by the Allies shall be occupied to secure the achievement of the basic objectives we are here setting forth.

(8) The terms of the Cairo Declaration shall be carried out and Japanese sovereignty shall be limited to the islands of Honshu, Hokkaido, Kyushu, Shikoku and such minor islands as we determine.

(9) The Japanese military forces, after being completely disarmed, shall be permitted to return to their homes with the opportunity to lead peaceful and productive lives.

(10) We do not intend that the Japanese shall be enslaved as a race or destroyed as a nation, but stern justice shall be meted out to all war criminals, including those who have visited cruelties upon our prisoners. The Japanese Government shall remove all obstacles to the revival and strengthening of democratic tendencies among the Japanese people. Freedom of speech, of religion, and of thought, as well as respect for the fundamental human rights shall be established.

(11) Japan shall be permitted to maintain such industries as will sustain her economy and permit the exaction of just reparations in kind, but not those which would enable her to re-arm for war. To this end, access to, as distinguished from control of, raw materials shall be permitted. Eventual Japanese participation in world trade relations shall be permitted.

(12) The occupying forces of the Allies shall be withdrawn from Japan as soon as these objectives have been accomplished and there has been established in accordance with the freely expressed will of the Japanese people a peacefully inclined and responsible government.

(13) We call upon the government of Japan to proclaim now the unconditional surrender of all Japanese armed forces, and to provide proper and adequate assurances of their good faith in such action. The alternative for Japan is prompt and utter destruction.

APPENDIX 15

Origin of the Far Eastern Commission and Its Terms of Reference

FAR EASTERN ADVISORY COMMISSION

Growing out of negotiations originally begun on August 21, 1945, a Far Eastern Advisory Commission was convened in Washington on October 30, 1945, for the purpose of making "recommendations" on the "formulation of policies, principles and standards by which the fulfillment by Japan of its obligations under the instrument of

surrender may be determined." The Commission met regularly over the next two months. It was composed of representatives of Australia, Canada, China, France, the Netherlands, New Zealand, the Philippines, the United Kingdom, and the United States. The Soviet Union declined the proposal to take part in the Far Eastern Advisory Commission because of its purely advisory character. In December 1945 the Advisory Commission undertook a trip to Japan and returned to Washington in February 1946.

ESTABLISHMENT OF THE FAR EASTERN COMMISSION

At the Moscow Meeting of Foreign Secretaries in December 1945 further negotiations between the United States, the Soviet Union, and the United Kingdom were conducted on the subject of greater Allied participation in the control of Japan during the occupation, and with the concurrence of China the three Foreign Ministers on December 27, 1945, issued a communiqué establishing Terms of Reference for a Far Eastern Commission to replace the Far Eastern Advisory Commission. The Moscow agreement was made known one day after the Advisory Commission had left Washington on its trip to Japan. Accordingly, upon this body's return to Washington the Far Eastern Commission came into being, consisting of representatives of those powers which had been members of the Advisory Commission and a Soviet representative. Headquarters were established in the former Japanese Embassy in Washington, and the first meeting of the Far Eastern Commission was held there on February 26, 1946. The Terms of Reference of the Far Eastern Commission are given below.

TERMS OF REFERENCE OF THE FAR EASTERN COMMISSION

[December 27, 1945]

Agreement was reached, with the concurrence of China, for the establishment of a Far Eastern Commission to take the place of the Far Eastern Advisory Commission. The Terms of Reference for the Far Eastern Commission are as follows:

I. *Establishment of the Commission*

A Far Eastern Commission is hereby established composed of the representatives of the Union of Soviet Socialist Republics, United Kingdom, United States, China, France, the Netherlands, Canada, Australia, New Zealand, India, and the Philippine Commonwealth.

II. *Functions*

A. The functions of the Far Eastern Commission shall be:

1. To formulate the policies, principles, and standards in con-

formity with which the fulfillment by Japan of its obligations under the Terms of Surrender may be accomplished.

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

3. To consider such other matters as may be assigned to it by agreement among the participating Governments reached in accordance with the voting procedure provided for in Article V–2 hereunder.

B. The Commission shall not make recommendations with regard to the conduct of military operations nor with regard to territorial adjustments.

C. The Commission in its activities will proceed from the fact that there has been formed an Allied Council for Japan and will respect existing control machinery in Japan, including the chain of command from the United States Government to the Supreme Commander and the Supreme Commander's command of occupation forces.

III. *Functions of the United States Government*

1. The United States Government shall prepare directives in accordance with policy decisions of the Commission and shall transmit them to the Supreme Commander through the appropriate United States Government agency. The Supreme Commander shall be charged with the implementation of the directives which express the policy decisions of the Commission.

2. If the Commission decides that any directive or action reviewed in accordance with Article II–A–2 should be modified, its decision shall be regarded as a policy decision.

3. The United States Government may issue interim directives to the Supreme Commander pending action by the Commission whenever urgent matters arise not covered by policies already formulated by the Commission; provided that any directives dealing with fundamental changes in the Japanese constitutional structure or in the regime of control, or dealing with a change in the Japanese Government as a whole will be issued only following consultation and following the attainment of agreement in the Far Eastern Commission.

4. All directives issued shall be filed with the Commission.

IV. *Other Methods of Consultation*

The establishment of the Commission shall not preclude the use of other methods of consultation on Far Eastern issues by the participating Governments.

Appendix 15—Continued

V. *Composition*

1. The Far Eastern Commission shall consist of one representative of each of the States party to this agreement. The membership of the Commission may be increased by agreement among the participating Powers as conditions warrant by the addition of representatives of other United Nations in the Far East or having territories therein. The Commission shall provide for full and adequate consultations, as occasion may require, with representatives of the United Nations not members of the Commission in regard to matters before the Commission which are of particular concern to such nations.

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

VI. *Location and Organization*

1. The Far Eastern Commission shall have its headquarters in Washington. It may meet at other places as occasion requires, including Tokyo, if and when it deems it desirable to do so. It may make such arrangements through the Chairman as may be practicable for consultation with the Supreme Commander for the Allied Powers.

2. Each representative on the Commission may be accompanied by an appropriate staff comprising both civilian and military representation.

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

VII. *Termination*

The Far Eastern Commission shall cease to function when a decision to that effect is taken by the concurrence of at least a majority of all the representatives including the representatives of the four following Powers: United States, United Kingdom, Union of Soviet Socialist Republics and China. Prior to the termination of its functions the Commission shall transfer to any interim or permanent security organization of which the participating Governments are members those functions which may appropriately be transferred.

APPENDIX 16

Organization of the Commission

COMMISSION

The Far Eastern Commission is composed of representatives of the eleven nations referred to in the Terms of Reference (appendix 15). Maj. Gen. Frank R. McCoy, United States Army (Retired), the United States representative, who serves with the personal rank of Ambassador, was unanimously elected Chairman of the Commission at its first meeting. In most cases the representatives of the other countries are the chiefs of mission of those countries in Washington. A list of representatives and their alternates follows in alphabetical order, and a complete roster of the personnel of each national delegation on the Commission will be found in appendix 17.

Australia	Ambassador NORMAN J. O. MAKIN Alternate: Mr. H. W. BULLOCK
Canada	Ambassador HUME WRONG Alternate: Mr. RALPH E. COLLINS
China	Ambassador V. K. WELLINGTON KOO Alternate: Dr. SHAO-HWA TAN
France	Ambassador PAUL E. NAGGIAR, Special Ambassador of the Republic of France to the Far Eastern Commission Alternate: Mr. JEAN DARIDAN
India	Ambassador Sir B. RAMA RAU Alternate: Mr. R. K. NEHRU
Netherlands	Ambassador E. N. VAN KLEFFENS Alternate: Mr. O. REUCHLIN
New Zealand	Ambassador Sir CARL BERENDSEN Alternate: Mr. G. R. POWLES
Philippines	Ambassador CARLOS P. ROMULO, Permanent Representative of the Republic of the Philippines to the United Nations and on the Far Eastern Commission Alternate: Mr. EMILIO ABELLO
Union of Soviet Socialist Republics	Ambassador ALEXANDER S. PANYUSHKIN Alternate: Mr. S. K. TSARAPKIN
United Kingdom	Ambassador Sir OLIVER FRANKS Alternate: Mr. H. A. GRAVES
United States	Maj. Gen. FRANK R. MCCOY, U.S.A. (Ret.)

A list of both present and former representatives on the Far Eastern Commission with their dates of service will be found in appendix 18.

STEERING COMMITTEE

A Steering Committee of the Commission has been established and is responsible for organizing Commission business and coordinating the functions of the various working committees described below. Recommendations from working committees regarding resolutions and policy proposals are normally considered by the Steering Committee before being forwarded to the Commission. Areas of disagreement between members are canvassed and wherever possible are resolved before proposals are forwarded to the Commission itself for consideration. The Chairman of the Steering Committee is Sir Carl Berendsen (New Zealand), and the Deputy Chairman is Mr. O. Reuchlin (Netherlands).

A list of members of the Steering Committee follows (see also appendix 17):

Australia	Mr. H. W. Bullock
Canada	Mr. Ralph E. Collins
China	Dr. Shao-hwa Tan
France	Mr. Jean Daridan
India	Mr. R. K. Nehru
Netherlands	Mr. O. Reuchlin
New Zealand	Sir Carl Berendsen
Philippines	Mr. J. U. Jovellanos
Union of Soviet Socialist Republics	Rear Adm. S. S. Ramishvili
United Kingdom	Mr. H. A. Graves
United States	Dr. George H. Blakeslee

COMMITTEES

The Commission has also established seven working committees to consider and make appropriate recommendations on various aspects of Commission business. Each of the working committees is composed of delegates from all of the eleven nations constituting the Commission.

Officers and the principal fields of business of the working committees are listed as follows:

Committee No. 1: Reparations

Chairman: Mr. H. W. Bullock (Australia)
Deputy Chairman: Mr. G. J. Jobsis (Netherlands)
Subjects for consideration: Japanese reparations; restitution of looted property.

Committee No. 2: Economic and Financial Affairs

Chairman: Mr. J. F. Ford (United Kingdom)
Deputy Chairman: Mr. Roswell H. Whitman (United States)
Subjects for consideration: Extent and character of Japanese in-

dustry, commerce, and agriculture necessary for a viable economy in Japan; measures necessary to establish such an economy, such as regulation of Japanese foreign commerce, control of agriculture, control of fishing and aquatic industries, control of transportation and communication, and control of industries; democratic agrarian reform; liquidation of monopolistic financial and industrial concerns (zaibatsu); complete elimination of Japanese war industry; reduction, control, and reconversion to peacetime production of industry, commerce, shipping, shipbuilding, and other industries which were used for war purposes during wartime; control of scientific and industrial research; stocks of strategic raw materials; relief problems, such as prevention of mass unemployment, public health, food, housing, and related financial problems.

Committee No. 3: Constitutional and Legal Reform

Chairman: Mr. R. K. Nehru (India)
Deputy Chairman: Mr. Ralph E. Collins (Canada)
Subjects for consideration: The Emperor institution, Diet, Cabinet, local government, political parties; a bill of rights; Japanese Constitution; judiciary; electoral system; reform of the police system.

Committee No. 4: Strengthening of Democratic Tendencies

Chairman: Rear Adm. S. S. Ramishvili (U.S.S.R.)
Deputy Chairman: Dr. T. T. Mar (China)
Subjects for consideration: Positive policy for democratization of the Japanese; removal from the Government and governmental institutions, as well as from organs of local administration and self-government, of all militarist and totalitarian elements who actively supported the aggressive policy of Japan; dissolution of former military, semi-military, fascist, nationalistic, and secret organizations; trade unions and peasants' organizations; supervision of elections in order to insure free expression of the people's will; activities of the Japanese Diet; educational system; public information, including press and radio and public entertainment, e.g. theaters and movies; political and social status of women; state Shinto.

Committee No. 5: War Criminals

Chairman: Mr. Yun-chu Yang (China)
Deputy Chairman: Mr. J. U. Jovellanos (Philippines)
Subjects for consideration: Identification, apprehension, and trial of persons suspected of war crimes; punishment of convicted war criminals.

Appendix 16—Continued

Committee No. 6: Aliens in Japan

Chairman: Mr. PAUL GUERIN (France)
Deputy Chairman: Mr. M. B. THRESHER (United Kingdom)
Subjects for consideration: Status and property of persons other than Japanese nationals.

Committee No. 7: Disarmament of Japan

Chairman: Mr. O. REUCHLIN (Netherlands)
Deputy Chairman: Rear Adm. S. S. RAMISHVILI (U.S.S.R.)
Subjects for consideration: Disarmament and dissolution of Japanese armed forces; disposition of Japanese armaments and military equipment; long-range control of armaments necessary for internal police security in Japan.

Each of these committees appoints *ad hoc* subcommittees as the occasion may require, and several committees have one or two standing subcommittees.

SECRETARIAT

In its capacity as host to the Commission, the United States Government has furnished the headquarters for the Commission, has underwritten the Commission's budget, and has in the main provided the staff for the Commission's Secretariat.

Mr. Nelson T. Johnson, former United States Ambassador to China and Minister to Australia, is Secretary General of the Commission, and Mr. David K. Eichler is his Deputy. The Commission has agreed that any nation is free to nominate and pay the salary and expenses of members of the Secretary General's staff, and upon this basis Mr. Donald G. Badger of Australia was appointed by the Secretary General to the position of Economic Secretary and served in that capacity from June 4, 1946, to June 5, 1948. At the present time the Secretariat is composed entirely of United States citizens.

The Secretariat is charged with the performance of all of the technical and administrative duties which Commission and committee meetings involve, including preparation of committee agenda and minutes, procurement, analysis, and dissemination of informational material about Japan; receiving and distributing official communications from governments; handling official Commission policy decisions and consultations; advising Commission members on questions of procedure; and performing such other functions as may be specifically assigned.

APPENDIX 17

Roster of Present Far Eastern Commission Personnel

November 1, 1948

I. DELEGATIONS

Australia

H. E. the Hon. N. J. O. MAKIN (Ambassador)
Mr. H. W. BULLOCK
Maj. Gen. J. A. CHAPMAN
Capt. S. H. K. SPURGEON, R.A.N.

Canada

H. E. Mr. H. H. WRONG (Ambassador)
Mr. R. E. COLLINS
Commander F. J. D. PEMBERTON, R.C.N.(R)
Mr. R. L. ROGERS

China

H. E. Dr. V. K. WELLINGTON KOO (Ambassador)
Dr. SHAO-HWA TAN
Mr. YUN-CHU YANG
Dr. SHOU-CHIN WANG
Dr. T. T. MAR
Dr. U. Y. YEN
Mr. T. L. TSUI
Mr. S. S. CHEN
Mr. E. H. CHOW
Mr. JOHN YOUNG
Dr. ANTHONY KOO
Mr. C. Y. HSIEH
Mr. S. Y. HUANG
Miss DOROTHY WEI

France

H. E. Mr. PAUL E. NAGGIAR (Ambassador)
Mr. JEAN DARIDAN
Mr. PAUL GUERIN
Mr. ROBERT DOUTEAU
Mr. PIERRE SAUVAGEOT
Mr. JACQUES DE FERLUC

India

H. E. Sir B. RAMA RAU (Ambassador)
Mr. R. K. NEHRU
Mr. I. S. CHOPRA
Mr. ASHFAQUE HUSAIN
Brig. D. CHAUDHURI
Dr. A. M. D'ROZARIO
Mr. S. N. BANERJI

Netherlands

H. E. Dr. E. N. VAN KLEFFENS (Ambassador)
Mr. O. REUCHLIN
Mr. G. J. JOBSIS
Mr. M. DE BLANK
Capt. F. STAM, R.N.N.

New Zealand

H. E. Sir CARL BERENDSEN (Ambassador)
Mr. G. R. POWLES
Mr. J. S. REID
Air Commodore J. L. FINDLAY
Mr. C. K. WEBSTER
Mrs. I. P. BLOOMFIELD
Miss B. M. HARTREE

Appendix 17—Continued

Philippines

H. E. Gen. CARLOS P. ROMULO (Ambassador)
Mr. EMILIO ABELLO
Mr. F. C. RODRIGUEZ
Mr. J. U. JOVELLANOS
Mr. SALVADOR P. LOPEZ
Judge JOSE INGLES
Mr. RENATO CONSTANTINO
Maj. ANTONIO P. CHANCO
Mr. PELAYO LLAMAS

Union of Soviet Socialist Republics

H. E. Mr. ALEXANDER S. PANYUSHKIN (Ambassador)
Mr. S. K. TSARAPKIN
Rear Adm. S. S. RAMISHVILI
Mr. A. P. KOROBOCHKIN
Mr. S. M. SERGEEV
Mr. B. K. SOKOLOV

United Kingdom

H. E. Sir OLIVER FRANKS (Ambassador)
Mr. H. A. GRAVES
Mr. B. COCKRAM
Mr. J. F. FORD
Mr. M. B. THRESHER
Mrs. J. LOCKE
Brig. J. D. P. CHAPMAN
Maj. C. RING
Mr. A. C. CHRISTELOW

United States

H. E. Maj. Gen. FRANK R. McCOY, U. S. A. (Ret.)—Chairman
Dr. GEORGE H. BLAKESLEE
Mr. ROBERT W. BARNETT
Mr. DEAN O. BOWMAN
Mr. EDWARD CASTLEMAN
Mr. PHILANDER P. CLAXTON
Miss EDNA V. CULBRETH
Mr. ROGER C. DIXON
Mrs. ALICE DUNNING
Mr. MICHAEL J. DUX
Miss KATHERINE B. FITE
Miss A. R. HALL
Col. E. W. HENDRICK
Capt. H. R. HUMMER
Mrs. S. G. KALLIS
Lt. Col. WALKER W. MILNER
Mr. H. D. OWEN
Mr. GEORGE POLLARD
Miss SARA D. PORTER
Mr. J. FRANKLIN RAY, Jr.
Col. T. S. RIGGS
Mr. FRANK A. SCHULER, Jr.
Lt. Col. HENRY O. SILSBEE
Mr. R. B. SMITH
Mr. C. E. SNOW
Mr. RAYMOND VERNON
Mr. ROGER L. WILLIAMS
Mr. ROSWELL H. WHITMAN

II. COMMITTEES

Steering Committee

Chairman:	Sir CARL BERENDSEN (New Zealand)
Deputy Chairman:	Mr. O. REUCHLIN (Netherlands)
Secretary:	Mr. DAVID K. EICHLER
Australia	Mr. H. W. BULLOCK
Canada	Mr. R. E. COLLINS
China	Dr. SHAO-HWA TAN
	Mr. YUN-CHU YANG
	Dr. T. T. MAR
France	Mr. JEAN DARIDAN
India	Mr. R. K. NEHRU
	Mr. S. N. BANERJI

Steering Committee—Continued

Netherlands	Mr. O. Reuchlin
	Mr. G. J. Jobsis
	Mr. M. de Blank
New Zealand	Sir Carl Berendsen
	Mr. G. R. Powles
Philippines	Mr. J. U. Jovellanos
United Kingdom	Mr. H. A. Graves
	Mr. J. F. Ford
United States	Dr. George H. Blakeslee
U.S.S.R.	Rear Adm. S. S. Ramishvili

Committee No. 1: Reparations

Chairman:	Mr. H. W. Bullock (Australia)
Deputy Chairman:	Mr. G. J. Jobsis (Netherlands)
Secretary:	Mr. James F. Davidson
Australia	Mr. H. W. Bullock
Canada	Mr. R. E. Collins
	Mr. R. L. Rogers
China	Mr. Yun-chu Yang
	Dr. Anthony Koo
France	Mr. Robert Douteau
	Mr. Jacques de Ferluc
India	Mr. S. N. Banerji
Netherlands	Mr. G. J. Jobsis
	Mr. M. de Blank
New Zealand	Mr. G. R. Powles
	Mrs. I. P. Bloomfield
Philippines	Mr. J. U. Jovellanos
United Kingdom	Mr. H. A. Graves
	Mr. M. B. Thresher
United States	Mr. Robert W. Barnett
	Mr. R. B. Smith
U.S.S.R.	Mr. S. M. Sergeev

Committee No. 2: Economic and Financial Affairs

Chairman:	Mr. J. F. Ford (United Kingdom)
Deputy Chairman:	Mr. Roswell H. Whitman (United States)
Secretary:	Mr. Andrew E. Rice
Australia	Mr. H. W. Bullock
Canada	Mr. R. E. Collins
	Mr. R. L. Rogers
China	Dr. Anthony Koo
	Mr. John Young
France	Mr. Robert Douteau
	Mr. Jacques de Ferluc
India	Mr. S. N. Banerji
Netherlands	Mr. G. J. Jobsis
	Mr. M. de Blank
New Zealand	Mr. G. R. Powles
	Mr. C. K. Webster

Appendix 17—Continued

Committee No. 2: Economic and Financial Affairs—Continued

Philippines	Mr. J. U. JOVELLANOS
United Kingdom	Mr. J. F. FORD
	Mr. M. B. THRESHER
United States	Mr. ROSWELL H. WHITMAN
	Mr. ROBERT W. BARNETT
	Mr. DEAN O. BOWMAN
U.S.S.R.	Mr. S. M. SERGEEV

Committee No. 3: Constitutional and Legal Reform

Chairman:	Mr. R. K. NEHRU (India)
Deputy Chairman:	Mr. R. E. COLLINS (Canada)
Secretary:	Mr. CARL H. PFUNTNER
Australia	Mr. H. W. BULLOCK
Canada	Mr. R. E. COLLINS
China	Dr. T. T. MAR
	Mr. S. S. CHEN
France	Mr. PAUL GUERIN
India	Mr. R. K. NEHRU
	Mr. I. S. CHOPRA
Netherlands	Mr. G. J. JOBSIS
	Mr. M. DE BLANK
New Zealand	Mr. G. R. POWLES
	Mrs. I. P. BLOOMFIELD
Philippines	Mr. J. U. JOVELLANOS
United Kingdom	Mr. H. A. GRAVES
United States	Mr. C. E. SNOW
U.S.S.R.	Mr. S. M. SERGEEV

Committee No. 4: Strengthening of Democratic Tendencies

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Deputy Chairman:	Dr. T. T. MAR (China)
Secretary:	Mr. CARL H. PFUNTNER
Australia	Mr. H. W. BULLOCK
Canada	Mr. R. E. COLLINS
China	Dr. T. T. MAR
	Mr. JOHN YOUNG
France	Mr. PAUL GUERIN
India	Mr. ASHFAQUE HUSAIN
	Dr. A. M. D'ROZARIO
Netherlands	Mr. G. J. JOBSIS
	Mr. M. DE BLANK
New Zealand	Mr. G. R. POWLES
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Philippines	Mr. J. U. JOVELLANOS
United Kingdom	Mr. M. B. THRESHER
United States	Mr. FRANK SCHULER
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Committee No. 5: War Criminals

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Deputy Chairman:	Mr. J. U. JOVELLANOS (Philippines)
Secretary:	Mr. CARL H. PFUNTNER

Committee No. 5: War Criminals—Continued

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Canada	Mr. R. E. Collins
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	Mr. C. Y. Hsieh
France	Mr. Paul Guerin
India	Mr. I. S. Chopra
Netherlands	Mr. G. J. Jobsis
	Mr. M. de Blank
New Zealand	Air Commodore J. L. Findlay
	Mr. G. R. Powles
Philippines	Mr. J. U. Jovellanos
United Kingdom	Mr. M. B. Thresher
United States	Miss Katherine B. Fite
U.S.S.R.	Rear Adm. S. S. Ramishvili

Committee No. 6: Aliens in Japan

Chairman:	Mr. Paul Guerin (France)
Deputy Chairman:	Mr. M. B. Thresher (United Kingdom)
Secretary:	Mr. Carl H. Pfuntner
Australia	Mr. H. W. Bullock
Canada	Mr. R. E. Collins
China	Mr. Yun-chu Yang
	Mr. C. Y. Hsieh
	Mr. S. Y. Huang
France	Mr. Paul Guerin
India	Mr. S. N. Banerji
Netherlands	Mr. G. J. Jobsis
	Mr. M. de Blank
New Zealand	Air Commodore J. L. Findlay
	Mr. G. R. Powles
Philippines	Maj. Antonio P. Chanco
	Mr. J. U. Jovellanos
United Kingdom	Mr. M. B. Thresher
United States	Mr. C. E. Snow
U.S.S.R.	Mr. S. M. Sergeev

Committee No. 7: Disarmament of Japan

Chairman:	Mr. O. Reuchlin (Netherlands)
Deputy Chairman:	Rear Adm. S. S. Ramishvili (U.S.S.R.)
Secretary:	Mr. Carl H. Pfuntner
Australia	Maj. Gen. J. A. Chapman
	Capt. S. H. K. Spurgeon, R.A.N.
Canada	Commander F. J. D. Pemberton, R.C.N. (R)
China	Dr. T. T. Mar
France	Mr. Robert Douteau
India	Brig. D. Chaudhuri
Netherlands	Mr. O. Reuchlin
	Capt. F. Stam, R.N.N.
New Zealand	Mr. G. R. Powles
	Air Commodore J. L. Findlay

Appendix 17—Continued

Committee No. 7: Disarmament of Japan—Continued

Philippines	Maj. ANTONIO P. CHANCO
	Mr. J. U. JOVELLANOS
United Kingdom	Brig. J. D. P. CHAPMAN
	Maj. C. RING
United States	Capt. H. R. HUMMER
U.S.S.R.	Rear Adm. S. S. RAMISHVILI

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Deputy Secretary General	Mr. DAVID K. EICHLER
Special Assistant to the Secretary General	Mr. HAROLD W. MOSELEY
Recording Secretary	Mr. CARL H. PFUNTNER
Documents Officer	Mr. GENE W. ABBOTT
Information Officer	Mr. KENNETH C. LAMOTT
Reparations Secretary	Mr. JAMES F. DAVIDSON
Economic Secretary	Mr. ANDREW E. RICE
Administrative Officer	Miss KATHLEEN M. WELSH
Assistant Documents Officer	Mr. DOYLE A. WALKER

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Miss MARY RITA COSGROVE
Mr. RANDOLPH COYLE
Miss GLORIA ENGLE
Mr. GEORGE FORBUS
Mr. RUDOLPH HOLTZ
Miss ELIZABETH A. HUFF
Mr. WILLIAM HOLLY
Miss CHRISTINE M. KOERNER
Miss KATHARINE LEA MARSHALL
Mr. DANIEL C. MEEKINS
Mr. ROBERT MOSLEY
Miss MIRIAM NIELAND
Miss NESBIT B. RILEY
Miss DORAINE RUSSELL
Mr. HAROLD M. STERN
Mrs. THERESA SWOPE

APPENDIX 18

Roster of Former Commission Personnel Including List of Past and Present Commission Representatives With Their Terms of Service

November 1, 1948

AUSTRALIA

Chief Representatives

H. E. Sir Frederic Eggleston	Feb. 26, '46–Mar. 17, '46
Lt. Gen. Sir John Lavarack	Mar. 17, '46–May 29, '46
The Rt. Hon. Dr. H. V. Evatt	May 29, '46–July 19, '46
Maj. J. Plimsoll	July 19, '46–Oct. 8, '46
H. E. The Hon. Norman J. O. Makin	Oct. 8, '46–Present

Former Delegation Members

Mr. Alfred Stirling
Maj. J. Plimsoll
Mr. John Oldham
Dr. John Andrews

CANADA

Chief Representatives

H. E. Mr. Lester B. Pearson	Feb. 26, '46–Oct. 9, '46
H. E. Mr. H. H. Wrong	Oct. 9, '46–Present

Former Delegation Members

Mr. E. Herbert Norman
Dr. George S. Patterson
Maj. Gen. H. F. Letson
Brig. N. E. Rodger
Mr. Paul Tremblay
Mr. A. E. Ritchie
Mr. B. J. Bachand
Mr. Charles Hebert

CHINA

Chief Representatives

H. E. Dr. Wei Tao-ming	Feb. 26, '46–July 8, '46
H. E. Dr. V. K. Wellington Koo	July 9, '46–Present

Appendix 18—Continued

Former Delegation Members

Dr. LIU SHIH-SHUN
Dr. C. L. HSIA
Mr. HSUAN-TSUI LIU
Mr. CHEN YUN
Dr. LIN MOU-SHENG
Col. LIN SHEN-MU
Dr. P. Y. HU
Mr. K. K. TSIEN
Dr. HOWARD K. C. WANG
Mr. K. T. HU
Lt. T. L. CHOW
Dr. S. Y. LIANG

FRANCE

Chief Representative

H. E. Mr. PAUL E. NAGGIAR	Feb. 26, '46–Present

Former Delegation Members

Mr. FRANCIS LACOSTE
Col. ALBERT J. P. LEBEL
Mr. LOUIS BACQUIER
Mr. MARCEL CLEMENT
Capt. MAURICE HOLLEY WILLIAMS
Mr. BLOCK-LAINE

INDIA

Chief Representatives

The Hon. Sir GIRJA SHANKAR BAJPAI	Feb. 26, '46–Jan. 31, '47
H. E. Mr. M. ASAF ALI	Mar. 5, '47–Apr. 14, '48
Mr. R. K. NEHRU	Apr. 15, '48–Aug. 1, '48
The Hon. Sir B. RAMA RAU	Aug. 2, '48–Present

Former Delegation Members

Mr. B. R. SEN
Mr. J. VESUGAR
Mr. R. R. SAKSENA
Mr. E. RADBONE
Mr. P. A. MENON
Mr. S. K. KIRPALANI
Col. M. S. RAJENDRASINHJI
Mr. S. SUNDARAM
Dr. B. K. BYRAM
Col. NOWABZADA SHER ALI KHAN
Col. B. M. KAUL
Mr. M. O. A. BAIG
Mr. M. AHMAD
Mr. W. AHMAD

NETHERLANDS

Chief Representatives

H. E. Dr. A. Loudon	Feb. 26, '46–July 1, '47
Mr. O. Reuchlin	July 1, '47–July 23, '47
H. E. Dr. E. N. van Kleffens	July 23, '47–Present

Former Delegation Members

Dr. A. D. A. de Kat Angelino
Dr. G. A. Ph. Weyer
Rear Adm. J. E. Meyer Ranneft
Dr. J. G. de Beus
Dr. R. H. van Gulik

NEW ZEALAND

Chief Representative

H. E. Sir Carl Berendsen	Feb. 26, '46–Present

Former Delegation Member

Mr. R. B. Taylor

PHILIPPINES

Chief Representative

H. E. Gen. Carlos P. Romulo	Feb. 26, '46–Present

Former Delegation Members

Mr. Manuel A. Adeva
Mr. Solomon V. Arnaldo
Mr. T. Baja
Col. A. Bautista
Mr. Tomas de Castro
Senator Tomas Confesor
Mr. Ciriaco Coronel
Mr. Manuel V. Gallego
Dr. Melquiades J. Gamboa
Mr. Delfin Garcia
Dr. Jose F. Imperial
Mr. Leonides S. Virata

UNION OF SOVIET SOCIALIST REPUBLICS

Chief Representatives

H. E. Mr. Andrei Gromyko	Feb. 26, '46–June 19, '46
H. E. Mr. N. V. Novikov	June 19, '46–Jan. 9, '48
H. E. Mr. Alexander S. Panyushkin	Jan. 9, '48–Present

Appendix 18—Continued

Former Delegation Members

Maj. Gen. A. V. VASILIEV
Mr. FEDOR OREKHOV
Mr. L. I. PAVLOV
Mr. ANATOLI A. ERMOLAEV
Mr. G. G. DOLBIN
Mr. N. I. NOVIKOV
Mr. P. K. KOULAKOV

UNITED KINGDOM

Chief Representatives

H. E. the Rt. Hon. Lord HALIFAX	Feb. 26, '46–May 13, '46
Sir GEORGE SANSOM	May 13, '46–Oct. 14, '47
H. E. the Rt. Hon. Lord INVERCHAPEL	Oct. 14, '47–July 8, '48
H. E. Sir OLIVER FRANKS	July 8, '48–Present

Former Delegation Members

Group Capt. J. R. WILSON
Mr. F. C. EVERSON
Maj. L. A. SUMMERSELL

UNITED STATES

Chief Representative

H. E. Maj. Gen. FRANK R. MCCOY — Feb. 26, '46–Present

Former Delegation Members

The Hon. BENJAMIN V. COHEN
Maj. Gen. JOHN H. HILLDRING
Col. C. STANTON BABCOCK
Mr. WILLIAM W. BISHOP, Jr.
Mr. HUGH BORTON
Col. HENRY A. BYROADE
Lt. Col. JAMES R. CASE
Col. RAYMOND M. CHESELDINE
Lt. Col. GEORGE W. CHILDS
Mr. ERLE R. DICKOVER
Lt. Col. TREVOR N. DUPUY
Mr. JOHN K. EMMERSON
Mr. DANIEL FAHEY
Capt. FRANK FENNO, Jr., U. S. N.
Mr. A. V. FREEMAN
Mr. JOHN K. GALBRAITH
Mr. ALBERT H. GARRETSON
Mr. ERNEST A. GROSS
Mr. JOHN HAZARD
Mr. CHARLES L. HODGE
Mrs. MARION A. JOHNSTON
Lt. Col. JEAN K. LAMBERT
Mr. WILLIAM W. LOCKWOOD

Former Delegation Members—Continued

Mr. EDWIN M. MARTIN
Brig. Gen. JAMES MCCORMACK, Jr.
Mr. LEONARD MEEKER
Maj. J. G. K. MILLER
Col. H. O. PAXSON
Lt. Col. ALLEN G. PIXTON
Mr. HAMILTON ROBINSON
Mr. W. A. RUDLIN
Lt. Col. R. F. SEEDLOCK
Mr. WILLIAM T. STONE
Col. C. B. WESTOVER

FORMER MEMBERS OF THE SECRETARIAT

Mr. HUGH D. FARLEY (Deputy Secretary General)
Mr. SAMUEL S. STRATTON (Deputy Secretary General)
Mr. JOHN P. GARDINER (Special Assistant to Secretary General)
Mr. RICHARD B. FINN (Executive Secretary)
Mr. CHARLES H. PENDLETON (Administrative Officer)
Mrs. JANE M. ALDEN (Legal Secretary)
Mrs. B. REUBENS (Economic Secretary)
Mr. DONALD G. BADGER (Economic Secretary)
Mr. FRANK L. TURNER (Research and Analysis Secretary)
Mr. HENRY L. TREPAGNIER, Jr. (Documents Officer)
Mrs. KATHRYN BARTIMO (Assistant Research and Analysis Secretary)
Mr. RALPH A. JONES (Assistant Research and Analysis Secretary)
Mr. WILBERT B. DUBIN (Assistant Economic Secretary)
Mrs. LOUISE MITCHELL (Administrative Assistant)
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Miss LUCILLE L. BAILEY
Miss JULIANA CLARK
Miss LUCILLE C. DE PRETIS
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Mr. JAMES V. KENNEDY
Mr. FRANK D. LEWIS
Miss WILMA L. MCELROY
Miss MARY ANN MCGUIGAN
Miss DEMETRIA PANAGOS
Mrs. MARGARET ROBERTSON
Miss MARY ANN ROLLMAN
Miss BARBARA QUANDT
Miss ANN SHELTON
Mrs. MARGARET C. SIMPSON
Mr. JOSEPH WHELAN
Mrs. MARY WILLIAMS

APPENDIX 19

Inter-Allied Trade Board for Japan

On October 10, 1946, the Far Eastern Commission approved as a policy decision the Terms of Reference for an Inter-Allied Trade Board for Japan to be composed of representatives of all the nations which are members of the Far Eastern Commission.[1] The function of the Board is to make recommendations to the United States Government on the disposition of commodities available for export from Japan, the sources from which commodities should be imported into Japan, and the best arrangements for facilitating Japanese exports and imports generally. Representatives of the eleven member nations of the Far Eastern Commission serve on the Board, and all recommendations involving matters of policy are subject to the approval of the Far Eastern Commission.

Since its inception the Board has concerned itself with such subjects as the allocation of Japanese textile products; the marketing of raw silk; the reopening of Japan to private trade, including the problem of the number of traders to be admitted, the method of contact within Japan, and the manner of public announcement of the decision to admit private traders; and the problem of setting an exchange rate for the yen. With the resumption of private trade with Japan on October 15, 1947, and the elimination on February 3, 1948, of all country quotas for private traders entering Japan, the role of the United States Government in making allocations of export and import goods was diminished accordingly. The adoption by the Far Eastern Commission on November 18, 1948, of a comprehensive policy allowing virtually unlimited private trade with Japan further reduced the participation of the United States Government and the Supreme Commander in this aspect of Japanese economic life. While the work of the Board has consequently decreased somewhat in the past six months, meetings are still held whenever any subjects within the purview of the Board are considered to require attention.

Following its establishment the Board accepted the offer of the Secretary General of the Far Eastern Commission to have the Commission Secretariat provide necessary services. Mr. Donald G. Badger, of Australia, Economic Secretary of the Commission from May 1946 through June 1948, was designated by the Secretary General to serve as Secretary of the Trade Board. Mr. Badger served as Secretary of

[1] *Activities of the Far Eastern Commission: Report by the Secretary General, February 26, 1946–July 10, 1947* (Department of State publication 2888), appendix 31.

the Board from October 24, 1946, until July 1, 1948. At the present time Mr. David K. Eichler, Deputy Secretary General of the Commission, serves as Secretary of the Board.

ROSTER OF PRESENT INTER-ALLIED TRADE BOARD PERSONNEL

United States	Mr. MERRILL C. GAY *(Chairman)*
Australia	Mr. H. W. BULLOCK
Canada	Mr. J. H. ENGLISH
	Mr. D. W. JACKSON (Alternate)
China	Mr. C. Y. Hsieh
France	Mr. J. C. WINCKLER
	Mr. M. A. FEQUANT (Alternate)
India	Mr. S. N. BANERJI
Netherlands	Mr. G. J. JOBSIS
New Zealand	Mr. R. W. MARSHALL
	Mr. J. SCOTT (Alternate)
Philippines	Dr. U. A. ZAFRA
	Mr. J. TEODORO, Jr. (Alternate)
United Kingdom	Mr. A. E. PERCIVAL
U. S. S. R	Mr. V. P. REBROV

U. S. GOVERNMENT PRINTING OFFICE: 1949

To my friend Jack with warmest regards
Alfred C. Oppler

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FAR EASTERN SECTION

THE REFORM OF JAPAN'S LEGAL AND JUDICIAL SYSTEM UNDER ALLIED OCCUPATION

ALFRED C. OPPLER*

I. GENERAL BACKGROUND OF THE REFORMS

1. *The Novelty of the Occupation*

The novel character of Allied occupations after World War II has been repeatedly emphasized in recent literature.[1] The modern type of treatment of the occupied nation by the conquering authority assertedly aims at far broader objectives when compared to military occupations of the past. It no longer restricts itself to disarming the enemy from a purely military and technical point of view, but is designed to prevent him from future aggression by what may be termed as psychological disarmament. Yet it may be remembered that such effort is not without precedent in history.[2] Napoleon I, another military occupant, was a great reformer and succeeded in having the European countries he conquered adopt ideas and institutions resulting from the French Revolution whose son he has been called. However that may be, in the case of Japan the Allied occupants consciously and openly proclaimed at the outset the intention to bring about that minimum of political and legal changes in the pattern of government and law which appeared indispensable for eliminating such features, which were defined as militarism, imperialism, feudalism, and "police state."[3]

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[1] See, for example, FRIEDRICH, C. J. AND ASSOCIATES: AMERICAN EXPERIENCES IN MILITARY GOVERNMENT IN WORLD WAR II (Rinehart, 1948) Chapter 1; and Thomas L. Blakemore, *Post-War Developments in Japanese Law*, WISCONSIN LAW REVIEW, July, 1947, Part I.

[2] American experience in that respect goes back to the period of occupation after World War I. In his critical analysis, *Military Occupation and the Rule of Law* (Oxford University Press, 1944), page 4, Ernst Fraenkel speaks of the application of Wilsonian principles to the field of military occupation. He characterizes the regime as a "symbolic mixture of realism and idealism."

[3] U.S. Initial Post-Surrender Policy for Japan (Released to the Press by the White House, September 22, 1945):

Part I

b. "... The authority of the militarists and the influence of militarism will be totally eliminated from her political, economic and social life. ..."

c. "The Japanese people shall be encouraged to develop a desire for individual liberties and respect for fundamental human rights, particularly the freedoms of religion, assembly, speech, and the press. ..."

With the preponderance of the United States influence in the occupation it was only natural that the goal toward which Japan was to be guided was democracy in the traditional Western sense.

2. *The Need for Moderation*

The unique nature and gigantic scope of such an experiment when tried on a less advanced and oriental civilization might easily have discouraged the skeptic, who does not believe in the possibility of influencing the thoughts and customs of a strange people. Yet, the philosophy of occupation had changed to a point where mere resignation to military objectives was out of the question. On the other hand, the situation required an unusual degree of patience and moderation on the part of those assigned to the task of inducing the necessary reforms. Both extremes, doing too much as well as not doing enough, had to be avoided. The middle-of-the-road course recommended itself as the only promising method of dealing with the Japanese to most of whom our ideas and practices were something relatively new. To be sure, the intelligentsia was familiar with the theory of Western political philosophy; there had been progressive tendencies toward the modernization of legal institutions, especially in connection with the outmoded family system and criminal law as well as procedure; and the international labor movement had exercised influence on the Japanese working classes. However, such tendencies were rigidly suppressed by the government and the powerful groups behind it, as soon as the prospect of war appeared on the political horizon, and even more during the war. The difference in Japanese historical experience from that of nations such as Germany, which once went through a period of democratic government, worked to the disadvantage as well as in favor of the Japanese adaptability to new concepts. The danger that these concepts would not be understood and easily digested was obvious. On the other hand, there was no association in the Japanese mind with any ill-fated past experience, as might have been in the case of those Germans who remembered the failure of the Weimar Republic. The occupation in Germany, apart from dealing with a more complicated human material, was probably often faced with the difficult task of evincing the reasons for and of overcoming discouragement or even cynicism because of that failure. The Japanese man on the street, on the contrary, reacted to the program of the Allied occupation with the attitude of one who eagerly, though somewhat puzzled, expects the dawn of a new era never experienced before.

Another fortunate factor has been that, with regard to their legal system, the Japanese have shown themselves particularly open to foreign ideas. The enactment during the Meiji Restoration of a whole series of basic codes patterned mainly on German and French models was certainly a unique phenomenon not unlike the reception of Roman Law which took place throughout northern Europe in the fifteenth and sixteenth centuries. In both instances local customs and traditions were merged with the imported institutions. The comprehensive codification in the initial Meiji era included the field of domestic relations, but left the semifeudal family system virtually untouched. Thus, while the first three books of the Civil Code, dealing with General Principles, Property Rights, and Obligations closely resembled the German Civil Code, the fourth and fifth books, covering Family and Inheritance Law, betray very little Western influence, but were based on Japanese customs. The fact that convention and tradition play a paramount role in Japan must always be kept in mind. In a conflict between the written law and the unwritten customs the latter weigh heavily, and the value of legislation designed to eliminate such customs will be dubious unless society wishes to free itself of them.

Hence, the legal reforms under the occupation had to take into consideration the two factors on which the Japanese legal system was based: (*a*) its continental character and (*b*) the strength of customs and traditions.

The occupation lawyers to whom the supervision over this reform work was entrusted had to beware of any overeagerness to impose the blessings of Anglo-Saxon legal institutions upon the continental law of Japan. However excellent these institutions may have proved at home, their adoption required conscientious scrutiny as to whether they fitted into this different system. Those who planned reforms could never lose sight of the fact that under the influence of native customs this system, as applied in practice, had undergone some considerable changes even from that to which the countries of its origin had developed. To exercise the needed restraint was all the more difficult as certain basic objectives of the occupation were absolutely binding and the time available to carry them out was limited. It is too early to arrive at a fair judgment as to what extent the occupation, in attempting to achieve these objectives, has avoided the mistake of imposing or even suggesting reforms for which the Japanese were not yet ripe. The writer is in no position to give an objective evaluation of this question

because of his participation in this reform work as a member of the occupation. However, it should be pointed out that General MacArthur's consistent policy as Supreme Commander of the Allied Powers (SCAP) has been toward inspiration and encouragement of the Japanese government rather than authoritative direction by fiat. The Japanese themselves acknowledge that once hostilities were ended they have been treated with statesman-like moderation, whereas they had expected revengeful subjection to the dictate of the victor. Different from Germany and Korea, where the method applied was direct military government, the occupation in Japan acted and continues to act through the media of the National Government,[4] which has remained intact. As far as the reform legislation was concerned, it was enacted by the Diet as the law-making organ representative of the Japanese people. This indirect nature of the occupation made it possible for the views of the Japanese to receive much consideration, and their reactions to projects of change were usually not ignored. The longer the occupation lasts the more the controls over the Japanese government are being relaxed.[5]

3. *Sources of Occupation Policy*

Under the Potsdam Declaration[6] the Japanese government was required to "remove all obstacles to the revival and strengthening of democratic tendencies. Freedom of speech, of religion, and of thought as well as respect for the fundamental human rights shall be established." It was obvious that these extremely broad objectives virtually constituted a program which called for a revolutionary change of Japanese society. What has happened since the surrender has fittingly been characterized as induced revolution, while an outstanding Japanese scholar used the term "August Revolution."[7] It was clearly understood that the inner transformation of the minds and attitudes of the people could not possibly be achieved overnight. The construction of the new house had to start with laying the legal foundations. The necessity of a sweeping reform legislation with respect to legal and

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[4] Item—Part II—2 ". . . the Supreme Commander has authority through Japanese governmental machinery and agencies, including the Emperor. . . ."

[5] See SCAP's message to the Japanese People on the Second Anniversary of the Constitution of Japan on May 3, 1949.

[6] Potsdam Declaration of July 26, 1945.

[7] Miyasawa, Toshimi, Professor of Constitutional Law at Tokyo Imperial University in an unpublished paper titled *Outline Concerning the Reforms in Japan under the Control of the Allied Powers.*

judicial institutions was outlined in the U.S. Initial Post-Surrender Policy for Japan, which stated: ". . . the judicial, legal, and police systems shall be reformed as soon as possible to conform to the policies set forth . . . and thereafter shall be progressively influenced to protect individual liberties and civil rights."[8]

4. *Form of Enactment*

As previously mentioned, in making use of the existing domestic machinery of government, the occupation left the enactment of the necessary reforms to the Diet, as a rule. As a matter of course, such legislation is subject to a right of veto by SCAP in case it is contrary to the basic objectives of the occupation. Nevertheless, in certain spheres of primary concern to the occupation the device of authoritative command of SCAP was chosen, as a rule, in the form of a memorandum to the Japanese government. Up to now innumerable such memoranda, called SCAPINS, have been issued. They cover measures such as the purge and abolition of vicious features of the police state as well as of wartime suppression of civil liberties. However, when this type of order, which might be characterized as occupational law, was issued, the principle of indirect military government was generally maintained by the practice of having the SCAPIN implemented into the Japanese Law. In doing so the Japanese government acts as an instrumentality of the occupation exclusively bound by the directive and not responsible within the limitations of the Japanese Constitution and other domestic law. The Diet, as a matter of principle, did not appear to be the appropriate organ for such automatic implementation in which the freedom of determination was excluded. Therefore, the SCAP directives are usually not implemented by statute, but by government ordinance "under the Potsdam Declaration." In the beginning of the occupation the form of an Imperial Ordinance was used.[9] After the new Constitution had abolished this type of enactment, the Cabinet Order took its place.[10]

Yet, in practice the distinction between "superconstitutional" occupation law and Diet-enacted statute has not been so clear-cut as it

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[8] U.S. Initial Post-Surrender Policy for Japan, Part III—Political, para. 3d.

[9] The legal basis for this device was Imperial Ordinance No. 542 of September 20, 1945. ". . . In accordance with the acceptance of the Potsdam Declaration, in order to carry out items based on the demands made by SCAP, the Government may when especially necessary, take the necessary steps through ordinances, and may establish necessary penal regulations. . . ."

[10] See Law 72 of 1947 (The Law concerning the validity of the Provisions of Orders in Force at the Time of coming into Force of the Constitution of Japan, etc.), English Edition of the Official Gazette, No. 313, April 18, 1947.

might appear from the above. In a few instances a milder and more courteous kind of command than the SCAPIN was chosen in the form of a letter written by General MacArthur to the Prime Minister. Such letter was usually implemented by Diet legislation.[11] In other cases such as the land reform legislation[12] the basic principles had been outlined by a SCAP directive and still the comprehensive legislation was enacted by the Diet. It remains to be seen whether the Japanese courts will treat this last-mentioned type of statute as occupation law or feel free to void it as unconstitutional. The issue has become a practical problem, since a great number of suits are pending in the courts which challenge the constitutionality of certain aspects of the land reform legislation.[13]

As far as the revision of the basic codes, such as Civil Code, Criminal Code, Court Organization Law, and procedural Codes was concerned, with one exception not a single formal directive was issued. This momentous reform was carried out by regular Diet legislation, whereby the occupation acted merely in an advisory and controlling capacity. Characteristically enough, the only case where authoritative insistence on such legislation became necessary was in connection with the required abolition of the lese majesty provisions of the Criminal Code.[14]

5. *Initial Abrogation of Laws*

In its very beginning the occupation had to concentrate on the military aspect of disarmament. This initial task required prerogative action, while a revision of the legal and judicial system of Japan even could not be considered without careful preliminary study and preparation. Nevertheless, the emphasis of the Potsdam Declaration, as well as of the occupant's philosophy on fundamental human rights, made the immediate abrogation of certain existing laws and practices imperative. Within the limited scope of this article it is not possible to discuss

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[11] Examples: (a) Letter of SCAP, dated February, 1947, requiring the abolition of the lese majesty provisions in the Criminal Code, and (b) Letter of SCAP, dated September 16, 1947, concerning the decentralization of police and the establishment of the Attorney General's Office. These letters were implemented by the following Diet Laws: (1) by the revision of the Criminal Code, Law No. 124 of 1947, O.G. Extra, October 26, 1947; (2) by the National Police Law, Law No. 196 of 1947, O.G. No. 516, December 17, 1947 and the Attorney General's Office Law, Law No. 193 of 1947, O.G. No. 516, December 17, 1947.

[12] Agricultural Land Adjustment Law, Revised by Law No. 42 of 1946, O.G. No. 168, October 21, 1946; Owner-Farmer Establishment Special Measures Law, Law No. 43 of 1946, O.G. No. 168, October 21, 1946.

[13] The main issue is whether the legal price provided for by the law constitutes "just compensation" of the landowner in the meaning of Article 29 of the Constitution.

[14] See footnote 11.

the various SCAP directives which did away with the most conspicuous legal devices for the suppression of political nonconformity with the will and whim of the government and the ruling warlords. The basic civil liberties directive is SCAPIN 93,[15] entitled "Removal of Restrictions on Civil and Religious Liberties." It directed the Japanese government to abrogate and immediately suspend all laws, decrees, orders, ordinances, and regulations restricting political, civil, and religious liberties; to allow unrestricted discussion of the Emperor, the Imperial institution, and the Imperial Japanese government; to remove restrictions on the collection and dissemination of information; and abolish all legal discrimination on account of race, nationality, creed, or political opinion. The SCAPIN contains a list of the most important enactments falling under this general characterization.[16]

Further steps were taken to free the press from governmental control and remove restrictions on freedom of communication and expression.[17] Separation of religion from the state, which had misused it for political ends, was ordered.[18] Finally, licensed prostitution, with its Japanese by-product of involuntary servitude by women who bound themselves to serve for a fixed period, was abolished as inconsistent with the principle of equality of the sexes and individual liberty and dignity.[19]

6. *A New Constitution*

(a) *The Issue of Legal Continuity.* It has been pointed out that any reform aimed at the transformation of a national society must necessarily start with laying the legal foundations for such change unless the idea of government by law is abandoned in favor of a system of arbitrary personal rule. Japan had a written Constitution, which reflected the political philosophy of the Meiji period. The continuation in force of this so-called Meiji Constitution[20] would not only have been inconsistent with the actual situation brought about by the surrender and subsequent Allied Occupation, but would also have prevented a pro-

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[15] Issued on October 4, 1945.

[16] Among them were the laws and ordinances which provided for "peace preservation," "protection and surveillance," "precautionary detention," "safeguarding military secrets," and the "Religious Body Law."

[17] SCAPINS 51 of September 24, 1945 and 66 of September 27, 1945.

[18] By the so-called Shinto Directive, SCAPIN 448, of December 15, 1945, which forbids the continuation of governmental sponsorship, control and dissemination of state Shinto as well as the affiliation of all religions with the government and with militarists and ultranationalistic ideologies.

[19] SCAPINS 642 of January 21, 1946, which also caused the nullification of all contracts which had for their object the binding or committing, directly or indirectly, of any woman to the practice of prostitution.

[20] Given to the people by Emperor Mutsuhito on February 11, 1889. For a brief analysis of the Meiji Constitution see Blakemore, *op. cit.*, part III.

gressive development of the whole legal system for which the Constitution had been the framework and guide. The Supreme Commander might have suspended the Meiji Constitution. However, such step would have created a vacuum. The only other and by far more constructive alternative was to replace the old charter by a new fundamental law, which was to establish the guiding principles or the over-all program on which a democratic system of government could be built and from which modern legislation could be developed. By deciding in favor of this alternative, the Japanese followed the pattern of historical revolutions.[21] Three main factors made the Meiji Constitution appear irreconcilable with the political realities: first, the change of the Emperor's position under the impact of the occupation; second, the postulate of a truly representative government; and third, the emphasis of the Potsdam Declaration upon fundamental human rights, which under the old Constitution were granted the people only "within the limits of law."

The new Constitution was promulgated on November 3, 1946, after long and sometimes heated debates in both Houses of the Diet and after lively discussions in the press and other media of public opinion. It came into force on May 3, 1947. Interestingly enough, since the Meiji Constitution had never been abrogated or suspended, the "Constitution of Japan," as the present instrument is called, was enacted as revision of the Meiji Constitution and in the forms required therein for constitutional amendments, which meant submission of the "project" of amendment to the Diet by Imperial Order, presence of at least two-thirds of all members of both Houses and majority of two-thirds of those present for the passing of the amendment.[22] Thus constitutional continuity was maintained. While, from a formal legal point of view no revolution took place, the fact remains, however, that in substance the product of the so-called amendment was a completely new charter in which it is hard to find substantial features of the predecessor instrument. Still the contradiction between procedure and substance resulted in various controversies among Japan's solons, which not only might provide legal scholars with plenty of subjects for doctor's theses, but also call for the attention of the political analyst far beyond their merely academic aspect. As the Meiji Constitution was never amended

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[21] Reference is made, for instance, to the several constitutions during the French Revolution, to the Constitution of 1871 enacted in France in the beginning of the Third Republic, and to the Weimer Constitution of 1919 in Germany.

[22] Article 73 of the Meiji Constitution.

since its enactment in 1889, there were no precedents available for the solution of these controversies. One of the problems raised was whether the Diet had the right to change the project of amendment as submitted by the Emperor or whether it could only accept or reject it *in toto*.[23] This question was actually decided in favor of the Diet's right to amend provisions of the proposed Constitution.[24] Another even more important issue arose in connection with the argument of some Diet members that certain basic principles embodied in the Meiji Constitution, namely, those characterized by the traditional and somewhat mythical term of "national polity"[25] were inviolable and not subject to amendment. This was the view originally expressed by Prince Ito, the father of that Constitution,[26] and led to the discussion of whether the new Constitution altered the "national polity." To answer this question in the affirmative would, on the basis of the Ito doctrine, have meant a challenge to the continuity of the constitutional development or even to the legality of the new Constitution. The argument was advanced by some of the progressive speakers, predominantly University professors, that the change in the national polity would be effected by the shift of sovereignty from the Emperor to the people.[27] Others held that such change had been the logical result of the acceptance of the Potsdam Declaration by Japan. However, the Government, although itself divided on this issue, repeatedly emphasized through its official spokesman, Minister Kanamori, that while the "political structure" was essentially changed by the new Charter, the national polity as such

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[23] The orthodox theory, maintained by N. Matsunami in his textbook in English language: THE JAPANESE CONSTITUTION AND POLITICS, p. 62 (Tokyo, 1940), denies the Diet such power of amendment completely. TATSUKICHI MINOBE: COMMENTARY OF THE CONSTITUTION (in Japanese), p. 722 (Tokyo, Yuhikaku Co., 1923), holds a different opinion, with regard to change of the constitutional project, but wants to exclude additions to the project because they would interfere with the initiative power of the Emperor. On the same question, see also SHIMIZU TORU: ON THE CONSTITUTION (in Japanese), p. 201 (Tokyo, Shimizu Shobō Co., 1904), and Dr. Ushijiro Sato: *Lecture on the Imperial Constitution* (in Japanese), 1938, pp. 368-370.

[24] Several amendments to the draft bill were enacted by the Diet, after the Government had recognized the right of the Diet to do so. (See Official Gazette Extra, No. 7, p. 11, of June 28, 1946, containing the minutes of the discussions of the House of Representatives, and the statement of Minister Kanamori; see O.G. Extra of June 24, 1946, No. 2, p. 20.)

[25] The Japanese term is *Kokutai*. Its meaning is not clearly definable in legal language, but it implies the "unbroken line of imperial rulers."

[26] See PRINCE HIROBUMI ITO: COMMENTARIES ON THE CONSTITUTION OF THE EMPIRE OF JAPAN (translated, Tokyo, 1931), p. 148.

[27] This view was supported by reference to a decision of the Japanese Supreme Court of May 31, 1929 in connection with an interpretation of the Peace Preservation Law. See interpellation of Peer Asai in O.G. Extra No. 25 of August 29, 1946, p. 6.

had not suffered and would not suffer any alteration.[28] Thus the revolutionary character of the new Constitution was minimized.

(b) *The Gist of the Constitution.* It is not the purpose of this article to elaborate on the contents of the new Constitution of Japan, certainly one of the most advanced basic laws of the present time. Essential parts of it will subsequently be considered in connection with the implementing legislation. The Constitution drew freely on the experiences of the West.[29] Attempting to reconcile the survival of the imperial institution with the establishment of a representative government along the lines of traditional parliamentarism, the Constitution has many features in common with the English system of government. The Cabinet exercises the executive power. It is headed by a Prime Minister with strong prerogatives, who is appointed by the Emperor upon designation by the Diet, from among its members. The Prime Minister appoints the other Ministers of State, the majority of whom must be members of the Diet. The Cabinet is responsible to the Diet,[30] characterized as the "highest organ of state power." The bicameral system has been retained but, following the British example, with the supremacy of the lower house over the upper. The Emperor is not even recognized as a titular Chief Executive. The Constitution defines him as the "symbol of the state and the unity of the people, deriving his position from the will of the people with whom resides sovereign power." Powers related to government are denied him, and his "acts in matters of state"[31] are merely formal and ceremonial. They require the advice and approval of the Cabinet. The judiciary has been made an independent third branch of the government, while in the past the judges in

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[28] Brief summaries of the endless arguments are given in the English language newspaper *Nippon Times* of August 28 and September 4, 1946.

[29] For a comparative analysis of the new Constitution of Japan see Supreme Commander for the Allied Powers, *Summation of Non-Military Activities in Japan,* No. 14, 1946, pp. 25-40.

[30] Article 69 of the Constitution provides: "If the House of Representatives passes a non-confidence resolution, or rejects a confidence resolution, the Cabinet shall resign *en bloc* unless the House of Representatives is dissolved within ten days." A heated constitutional controversy ensued when Prime Minister Yoshida as chief of a minority Cabinet, on November 15, 1948, threatened to suggest the dissolution of the lower House to the Emperor on the basis of Article 7 of the Constitution, which lists the dissolution among the functions of the Emperor. The opposition maintained that the House of Representatives could only be dissolved in the case of Article 69. Pursuant to a compromise the dissolution of the House was actually preceded by a vote of non-confidence.

[31] This distinction is somewhat ambiguous and escapes legal interpretation. The CONSTITUTION OF JAPAN states:

"Article 3. The advice and approval of the Cabinet shall be required for all acts of the Emperor in matters of state, and the Cabinet shall be responsible therefor.

"Article 4. The Emperor shall perform only such acts in matters of state as are provided for in this Constitution and he shall not have powers related to Government."

Japan were civil servants under the Ministry of Justice. In vesting the Supreme Court with the power of judicial review regarding the constitutionality of legislative as well as administrative acts, the Constitution decided in favor of the American pattern, frequently termed judicial supremacy. In the field of local government the constitutional provisions are not particularly elaborate. They stress the principle of local autonomy, which is defined as the right of local public entities to manage their property, affairs, and administration and to enact their own regulations within law. They furthermore require that these local entities shall establish assemblies and that the members of such assemblies as well as the chief executives shall be elected by direct popular vote. All other details are left to implementing legislation. The Constitution contains an extensive catalogue of "rights and duties" of the people with considerably greater emphasis upon the rights.[82] While the Meiji instrument had restricted the guarantee of such fundamental rights by the clause "within the limits of the law" and thus actually made them meaningless as a safeguard for the individual, the new Constitution omits this limitation.[83] Finally, the renunciation of war and the permanent abolition of the Armed Forces, both connected with military defeat and surrender, may be mentioned as unique features of this Constitution.

7. *Implementation of the Constitution by Diet Legislation*

(a) *The Dilemma of Transition.* The enactment of any new Constitution at once raises an immensely practical problem as to its implementation into the law of the land. After all, the basic law sets forth only the broad principles for a legislative program, which requires considerable time for study, discussion, and coordination. There will always be a transitional period, during which the old laws are not yet

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[82] The outstanding elements of this Bill of Rights are individual dignity (see Articles 13 and 24) and equality under the law with explicit ban of discrimination in political, economic, and social relations because of race, creed, sex, social status or family origin (Article 14).

[83] It appears, however, that the exercise of fundamental rights is somewhat limited by consideration of public welfare. Article 12 provides that "the freedoms and rights guaranteed to the people by this Constitution shall be maintained by the constant endeavor of the people who shall refrain from any abuse of these freedoms and rights and shall always be responsible for utilizing them for the public welfare." The issue of public welfare might play an important role in future decisions of the Supreme Court on the constitutionality of legislation restricting economic freedom. The Constitution itself does not take any definite position in the question of controlled economy versus free enterprise. While property rights are declared inviolable, they may be "defined by law, in conformity with the public welfare." (Article 29) The recent judicial attitude regarding state control of economy in the United States is analyzed by Vincent M. Barnett, Jr. in *The Supreme Court And The Capacity To Govern,* POLITICAL SCIENCE QUARTERLY, September, 1948, p. 342.