It is of great importance that the detailed preparation of the British claims should be taken up and pressed on at once. Each category should be developed and every claim that can be legitimately supported should be included. It is not only a matter of the aggregate of all our claims but of the ratio, in which under the Kel agreement we are to share in each payment made by Germany. The preparation must in any case take a considerable time and demand much skill and care.

At present the British claims for losses by submarines rests on statistics and estimates only. So far as I know, nothing has been done beyond the estimates set out at p.5. of the Treasury Memorandum on the Indemnity payable by the Enemy Powers (1041), prepared apparently in October 1913. This was largely the work of the Ministry of Shipping, but the Board of Trade had some part in it.

The tonnage of hulls lost is taken at a flat rate of £40. a ton – no distinction is made between the "Lusitania" and a collier. This figure is supposed to be "the present market price of free vessels" i.e. the price just before the Armistice. As to cargoes, no attempt has been made to ascertain what the particular cargoes sunk consisted of or what they were worth. Particulars of cargoes lost during the greater part of 1918 have been extracted and values have been assigned by reference to values in the Board of Trade accounts; estimates have been made of the proportions of outward cargoes, which are regarded
as resulting in direct loss to British interests. To the hypothetical cargoes thus assumed which "may be regarded" as lost to Great Britain, factors of value on the basis of 1918 replacement values have then been applied, and thus a round figure of £187,000,000 is got at. The memorandum is silent on the question of the value of the freights in course of being earned on cargoes lost outwards and this would not be included in the Board of Trade figures of the values of cargoes exported. I am told that another estimate was made of this element of partly earned freight lost by the sinking of outward-bound ships, but I do not know how it was made.

The Treasury Memorandum (p. 4) says that it is almost certain the estimates are "on the low side". Why they should have been made "on the low side" I do not know.

Instead of estimates "on the low side" and statistical computations proceeding from assumptions and from other data than those of the ships and cargoes really lost to a speculative conclusion, I think the British case should rest on an examination of the facts relating to the ships and cargoes lost in fact. In no Court of Law would such methods be admitted. The value of each ship lost and of her cargo and freight as at the time of the wrongful sinking would as a matter of course be the subject of the enquiry. When this claim comes to be publicly discussed, I cannot believe that the Shipping public or the House of Commons will tolerate estimates, and as the figures run into hundreds of millions estimates, admittedly "on the low side", will involve someone in very grave responsibility, if they are all we have to rely on.

I was told by the Secretary of the Ministry of Shipping, obviously correctly, that with some cost and trouble the tonnage and the particulars of each ship lost could be ascertained and an expert opinion as to its value at the time of loss could be given. I think this should be done. I was told by the officials of the Treasury and the Board of Trade, that it was not possible now to ascertain what cargo was lost and what its value was; that the Ministry of Munitions and the Ministry of Food did not know
what cargoes they had coming forward by particular ships
and that they could only say that over a considerable period,
their arrival fell short of their expectations in certain
lines to certain amounts. I confess I cannot believe this.

Somewhere, either in the papers of shipowners, charterers;
shippers, Consignees or underwriters, as every Shipping
lawyer knows, there must have been in the ordinary course of
business material from which the cargo of each ship lost
could be reconstructed and valued. There has been no reason
hitherto why these regular business records should have been
destroyed but of course, now that the war is over, every day
makes losses or destruction of such material more and more
probable. It will be time to resort to estimates when it is
proved that the real facts can no longer be ascertained.

The figures involved are so enormous that the cost of
reconstituting the actual manifest of every ship lost and
of finding out the value of all the good, and of deciding
which parcels were for British and which was not for British
account with approximate accuracy would be quite insignifi-
compared with the gain of increasing the claims materially.
The process ought in my opinion at any rate to be pursued
until it has become certain that the result will not make any
substantial alteration for the better in the Treasury
figures.

It appears to me to be certain that to value lost cargoes
regardless of the date of loss on the basis of 1918 re-
placement values only, is a method that cannot be defended.
If it is said that all prices had risen by the end of the war,
so that this value is favourable to us, we may be sure
that our Allied friends will be acute enough to see this.
I am sure also that it will be very difficult to support
any system of estimating before the public at home, if
it has to be admitted that no attempt has ever been made
to ascertain the real facts. There can be no doubt that
such a /
mode of presenting the facts to the Reparation Commission makes our case extremely vulnerable, and if the criticism which it must provoke, should prevail, we shall have no alternative line of proof ready to fall back upon.

Again, in the case of hulls, when the claim is £245,000,000, a very round figure, it is very remarkable if £40 a ton is the true average of their value. There is an average no doubt but a true average is not likely to be so round a figure as that.

For reasons fully set out in the British Memorandum on the British Claim, presented to the First Sub-Commission of the Reparation Commission (to which I refer), I think that we are entitled to calculate the value of ships, irrespective of the fact that, being British owned, British ships were liable to be requisitioned at Blue Book rates. This liability was itself a sacrifice directly imposed on shipowners by reason of the war and when a ship was lost the value to the country at large was not merely the sum, which a ship thus fettered would be worth to its owner during the war but the value that she actually had at that time, taking account of the two elements of sacrifice, the sacrifice involved in putting her under Blue Book Rates and the sacrifice involved in losing her altogether. Alternatively, the shipowner loses the ship and the State lose the advantage of being able to claim her at Blue Book Rates. Her total value is therefore the sum of these elements of loss. I see no reason why we should not fight for the higher value in the alternative and in fact all the other Powers and the U.S.A. particularly adopted values immensely above £40, especially when the difference between gross tonnage and D.W.C. was taken into account. (See their estimate just in before the Sub-Commission).
Again the Treasury Memorandum ignores chartered freights in process of being earned, and profits contracted for and confines the claim to interest at an admittedly low rate. Such altruism the public will never understand.

The same memorandum treats British Ships lost when in Allied Service as being an Allied and not a British loss. This makes a difference to us in the Treasury figures of over £60,000,000. I think this method wrong. Of course these ships must not be paid for twice over but they were British Ships, and the fact that the Ally, in whose service they were, recouped us their value then and there under contract, is merely a question of account, as to which it must be remembered that the Allies are heavily our debtors. The claim must be in the owners’ name, that is Great Britain’s.

Already the position involved in the method of estimates has caused grave inconvenience. When methods of evaluation were discussed by the First Sub-Commission, the French and Belgians claimed, as the measure of damage for reconstruction and rebuilding, the cost of Labour and materials when the actual work is done. This for buildings land is reasonable in principle and favourable to us, for the cost must tend to go down. This, however, would not do as the universal rule for ships. It would not even give the 1918 value of the Treasury Memorandum. The Allies were prepared to listen to a claim for the value at the time of replacement, when there had been a purchase of new ships but that was by no means a common case. They were prepared to agree to ships being always taken at their value when lost, but we had been provided with no materials as to that and in accepting such a rule might possibly throw millions away. In the position in which we were placed by this want of preparation our case we had to temporise. The Allies would not listen to the suggestion that we should be allowed to choose whichever measure of value suited us best; that
the value at the date of loss or at the date of rebuilding, which ever turned out higher. They would not admit that ships differed from other chattels. Ultimately the best that could be done was to adopt a formula, that the value at the time of loss might be adopted as an alternative, in order to avoid exposing the owner to the risks of rise or fall of market prices - a formula, which I hope can be made to serve but is at least less convenient than a fixed rule that could have been put forward, if the British case had been got up on facts and not on estimate. Of course the Report of the Reparations Commission is not an agreement between the Powers but I am sure the French will press for its adoption by the Permanent Commission.

The Treasury Memorandum says (p. 19.) that the price we place on British Shipping destroyed will be used against us in the valuation of any German ship, which we take over. Apparently the fear is, that we shall have to give credit in the ton for ton pool for old German ships taken in 1919 at the value of other ships lost in 1916, 1917, and 1918; that we shall have to pay into the pool at the values, if we get ships on the ton for ton principle in advance of the amounts received on Reparation account by other Powers, and that, if we take to the ships at those values, we shall lose on reselling them to British ship-owners, who now want not so much prompt ships on the spot, which was the case when the ton for ton idea started, but cheap ships.

As no ton for ton has yet been agreed with our Allies; as there is no reason why the value of a ship lost and the value of a ship taken in part satisfaction at a different time should be the same; as we have not agreed to pay money into the pool and need not do so, as far as I can see, book entries being enough; and as the whole value of the ton for
- 7 -

ten pool is shaken, if it is only a plan for supplying cheap ships to shipowners and enabling the Ministry of Shipping to come out of the transaction without loss, I think these considerations ought not to deter us from proving out true case. I object to a deliberate waive of scores of millions of our true claim in order to facilitate a departmental scheme, which is not yet in being, and I think the public will object too. Of course people, who are quite sure that Germany will not pay and cannot pay and that the ships are all that we shall ever get, have much to say on these lines but I do not see why their confidence in their own prophecies should lead us to throw away the only chance we shall ever have of proving a maximum Reparation claim. After all they may be wrong.

I hope all the Departments concerned will be directed to prepare the fullest possible claims under all categories that can be substantiated by actual proof and to do so as soon as possible.

(Sgd.) SUMNER.

3rd, July, 1919.