

September

Record of Proceedings
of the
INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST

Court House of the Tribunal
War Ministry Building
Tokyo, Japan

The United States of America, the Republic of China,
the United Kingdom of Great Britain and Northern Ireland,
the Union of Soviet Socialist Republics, the Commonwealth of
Australia, Canada, the Republic of France, the Kingdom of
the Netherlands, New Zealand, India, and the Commonwealth
of the Philippines

-Against-

ARAKI, Sadao; DOHIHARA, Kenji; HASHIMOTO,
Kingoro; HATA, Shunroku; HIRANUMA, Kiichiro; HIRO-
TA, Koki; HOSHINO, Naoki; ITAGAKI, Seishiro; KAYA,
Okinori; KIDO, Koichi; KIMURA, Heitaro; KOISO, Kuni-
aki; MATSUI, Iwane; MATSUOKA, Yosuke; MINAMI,
Jiro; MUTO, Akira; NAGANO, Osami; OKA, Takasumi;
OKAWA, Shumei; OSHIMA, Hiroshi; SATO, Kenryo; SHI-
GEMITSU, Mamoru; SHIMADA, Shigetaro; SHIRATO-
RI, Toshio; SUZUKI, Teiichi; TOGO, Shigenori; TOJO,
Hideki; UMEZU, Youshijiro;

-Accused-

Official Court Reporters

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27 SEPTEMBER 1946

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Of
WITNESSES
(none)

I N D E X
Of
EXHIBITS

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I N D E X
Of
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1 Friday, 27 September, 1946

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3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,
10 at 0930.

11 - - -

12
13 Appearances:

14 For the Tribunal, same as before.

15 For the Prosecution Section, same as before.

16 For the Defense Section, same as before.

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18 - - -

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20 (English to Japanese and Japanese
21 to English interpretation was made by the
22 Language Section, IMTPE.)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: Mr. McKinney.

4 MR. McKINNEY: As shown in exhibit No. 486,
5 Ambassador TOGO stated to Von Ribbentrop on the 28th
6 of January, 1938, that the time would soon come when
7 Germany and Japan should begin discussions of com-
8 mercial and trade agreements regarding the New China
9 which was about to be constructed.

10 The prosecution's document No. 4031-B is
11 now offered by introduction into evidence. It is a
12 "Pro Memoria" bearing date of the 29th of June, 1938,
13 and relates to the promotion of close economic co-
14 operation between Japan and Germany in China.

15 THE PRESIDENT: Admitted on the usual terms.

16 CLERK OF THE COURT: Prosecution's document
17 No. 4031-B will receive exhibit No. 591.

18 (Whereupon, the document above
19 referred to was marked prosecution's exhibit
20 No. 591 and was received in evidence.)

21 MR. McKINNEY: I will now read exhibit
22 No. 591:

23 "Copy

"Berlin, 29 June 1938

24 "Secret!

25 "Pro Memoria

1 "I.) In the repeated discussions which
2 Reich Minister for Foreign Affairs von RIBBENTROP had
3 with the Japanese Ambassador in Berlin, TOGO, over the
4 economic construction /Ayufbau/ in China, the Reich
5 Minister recognized the special position which Japan
6 holds in China and shared the view with the Ambassador
7 that Japan and Germany must cooperate economically
8 still more closely in China in the spirit of the Anti-
9 Comintern Pact which had been concluded between the
10 two countries. Accordingly, the Reich Minister de-
11 clared to the Ambassador the willingness of the German
12 Government to try to do its best for economic and tech-
13 nical cooperation with Japan in China. He at the
14 same time expressed the wish that the Japanese
15 Government for its part would proceed in the same
16 manner and that in particular it would take an
17 especially generous and considerate attitude especially
18 as regards German foreign trade in China.

19 "II.) After the Ambassador had informed
20 the Japanese Government of the course and result of
21 the conversations as depicted above, the Ambassador
22 was then instructed by the Imperial Government to
23 communicate the following to the German Government:--
24 The Japanese Government is agreed with the points
25 mentioned in I.) and accordingly intends, with regard

1 to the economic activity concerning Germany's foreign
2 trade in China to observe the following lines in future.

3 "a.) In future the Japanese Government
4 will consider Germany particularly benevolently in
5 her economic activities in China and will at least
6 grant her the most favorable treatment that third
7 powers (excepting Manchukuo) will enjoy, and is
8 accordingly prepared in individual cases, in which
9 future proposals will be made by Germany with a bearing
10 on this, to promote German interests where possible.
11 This benevolent treatment of Germany of course does
12 not exclude Japan's economic cooperation with third
13 powers.

14 "b.) The Japanese Government is of the
15 opinion that German foreign trade in China has to
16 stand fundamentally on the same footing with the
17 Japanese. It will consequently do its best for both
18 countries to enjoy the same treatment as regards
19 customs and accordingly in the event of any special
20 import and export regulations, management of foreign
21 bills of exchange or other measures for the control
22 of goods and payment arrangements being met with,
23 which make the position of equality of Germany prac-
24 tically impossible, for example concerning the
25 different nature of German or Japanese currencies.

1 German interests will be particularly benevolently
2 considered and at least the most favorable treatment,
3 that other powers (excluding Japan and Manchukuo)
4 enjoy, will be granted to her."

5 Prosecution document No. 4031-A is offered
6 in evidence. It is an explanation by Ribbentrop of
7 his discussion with Japanese Ambassador TOGO of the
8 "Pro Memoria" on the subject of economic cooperation
9 in China.

10 THE PRESIDENT: Admitted on the usual terms.

11 CLERK OF THE COURT: Prosecution's document
12 No. 4031-A will receive exhibit No. 592.

13 (Whereupon, the document above
14 referred to was marked prosecution's exhibit
15 No. 592 and was received in evidence.)

16 MR. McKINNEY: (Reading)

17 "R.M. 240

18 "The Japanese Ambassador TOGO, who had
19 announced himself, visited me today at 13.30 hours.

20 "He handed me the Pro Memoria attached in
21 the enclosure. As an explanation he added that the
22 Japanese Government would like to avoid the expression
23 'North China' in such a Pro Memoria and would like to
24 put 'China' in its place. Furthermore the Japanese
25 Government was not able to assure Germany a better

1 position than all other powers in a treaty form.
2 Therefore the formula mentioned at the end of the Pro
3 Memoria had been chosen in order to meet our wishes
4 as far as possible. I declared myself not satisfied
5 with the formula.

6 "Among other things I explained to the
7 Japanese Ambassador whether the formula in paragraph
8 a.) of the Pro Memoria could not be changed in such a
9 way so that it would read: 'to further German interests
10 to a specially great degree' instead of 'to further
11 German interests as far as possible.'

12 "The Japanese Ambassador seemed to consider
13 a change of that sort possible.

14 "After that he once more emphasized in epic
15 verbosity that the Japanese Government would do every-
16 thing necessary to secure the German interests. The
17 idea of his statements seemed to be that one was, to
18 be sure, in practice willing to grant Germany a
19 better position than all the other nations and to
20 express this in the text as far as possible, but that
21 one would not agree to commit oneself in a definite
22 treaty form. The Japanese Ambassador further declared
23 that he would also willingly accept further German
24 proposals for modifications regarding the Pro Memoria.
25

"I explained to the Japanese Ambassador

1 that at present I could not take up a standpoint
2 regarding the text of the Pro Memoria. To me it
3 seemed that the draft did not go further than the
4 most preferential treatment which, in view of Germany's
5 special situation, was not satisfactory. However, I
6 would have this plan thoroughly examined and would
7 then give him a report regarding the outcome of this
8 examination.

9 "The Japanese Ambassador then briefly
10 mentioned the present situation of the German-Japanese
11 negotiations for the commercial treaty. Unfortunately
12 Japan was at present not capable of paying foreign
13 bills of exchange to a greater extent.

14 "I declared that I was not informed about
15 details and referred him to Min. Dir. WIEHL.

16 "The Japanese Ambassador then expressed
17 his thanks for the support which Min. Dir. WOHLTAT
18 had given him at the whaling conference in London.

19 "I then informed the Japanese Ambassador
20 that our military advisors would probably leave
21 Hankow on 5 July. It had not been altogether easy
22 to effect their departure. In connection with the
23 recall of Ambassador TRAUTMANN a number of combinations
24 regarding severing of German-Chinese relations and the
25 recognition of the Peking Government had been in the

1 Japanese press. I would be thankful if the Japanese
2 press could be influenced in such a way that it would
3 refrain from such combinations.

4 "The Japanese Ambassador then expressed
5 himself optimistically regarding the further develop-
6 ment of the military operations. After a capture of
7 Hankow the position of CHIANG KAI-SHEK seemed to him
8 untenable.

9 "Berlin, 29 June 1938.

10 "Signed RIBBENTROP."

11 Prosecution document No. 4031-C is presented
12 for introduction into evidence. It is a memorandum
13 by Minister Director Wiehl of 6 July 1938 regarding a
14 conversation with Ambassador TOGO on the subject of
15 trade in China.

16 THE PRESIDENT: Admitted on the usual terms.

17 CLERK OF THE COURT: Prosecution's document
18 No. 4031-C will receive exhibit No. 593.

19 (Whereupon, the document above
20 referred to was marked prosecution's exhibit
21 No. 593 and was received in evidence.)

22 MR. McKINNEY: I will now read exhibit No.
23 593:
24

25 "Berlin, 6 July 1938

"MEMORANDUM

1 ON A CONVERSATION WITH THE JAPANESE AMBASSADOR, ON
2 6 JULY 1938.

3 "TOGO, who had announced himself, made
4 reference to the fact that the Reichminister in the
5 conversation of 29 June had referred him to me re-
6 garding details of the pending economic negotiations.
7 At first he spoke about the present situation of the
8 German-Japanese negotiations for the trade agreement
9 and said that, in the last conversation of his
10 Commercial Attache SHUDO with M. D. WOHLTHAT and L. R.
11 VOSS, we had expressed certain wishes for the accept-
12 ance of German goods by Japan up to the amount of 160
13 million yen, suggested by Japan, for normal export,
14 and had declared ourselves willing to take into con-
15 sideration the Japanese suggestion for an agreement
16 regarding an additional export of 150 million yen,
17 half against Japanese goods, half on credit, in the
18 event of the Japanese government considering our
19 wishes favorably. He had telegraphed this outcome of
20 the conversation of his Commercial Attache to Tokyo
21 and had recommended consideration of our wishes.
22 After having received instructions he would again
23 contact me.

24 "Then the Ambassador again spoke about the
25 Pro Memoria on German-Japanese economic cooperation

1 in China and insisted particularly and obstinately on
2 his counterplan which he had handed to the German
3 Foreign Minister on 29 June and which the Reichs-
4 minister had already declared unsatisfactory. The
5 differences of opinion referred to the following
6 points:

7 "(1) According to our suggestion the Pro
8 Memoria was to refer to 'the areas of China which are
9 under Japanese influence.' The Ambassador wishes to
10 replace these words throughout merely by 'China' and
11 brought up as a reason that the Japanese government
12 hoped to extend its influence over all of China,
13 therefore it was for general reasons undesirable to
14 acknowledge in this document the possibility of a
15 division of China into areas which either were or
16 were not under Japanese influence. In answering this
17 I stressed that, with our stipulation of text, we
18 merely wished to clarify that the agreement did not
19 apply to such areas which finally would remain of
20 China without being under Japanese influence. In
21 itself this was natural because the Japanese govern-
22 ment could of course only take over responsibilities
23 for such areas in which it had influence. Therefore
24 I was willing to ask for the Reichsminister's decision
25 whether he approved of the Japanese suggestion, to

1 put only 'China' in the parts of the Pro Memoria
2 concerned.

3 "(2) The Japanese counterdraft wishes to
4 put the words 'German foreign trade' where, in various
5 parts, it says 'German trade' in China. I declared
6 to the Ambassador that we could not agree to this.
7 The reconstruction and securing of the commercial
8 activity of German firms in China was for us an un-
9 avoidable prerequisite for the economic cooperation
10 in China desired by both governments. This commercial
11 activity, however, not only consisted of the import
12 and export of German goods by these firms to or from
13 Germany, but also of trade within China and of media-
14 tion for export of Chinese goods to third countries
15 for instance America and England. At last the Amba-
16 sador conceded this and consented that at the end
17 of (I) and in (II) before the letter (a), just
18 'Germany's trade in China' should be put in place of
19 'foreign trade.'

20 "(3) The Japanese suggestions for changes
21 under the letters (a) and (b) present the main dif-
22 ficulty. The Ambassador persisted that the Japanese
23 government could not promise us a better position
24 than third powers and equal treatment with Japan re-
25 garding taxes, revenues, duties, traffic fees, etc.

1 In answering I declared to him again and again that,
2 in view of our support of the Japanese action in China
3 rendered with considerable sacrifices, we felt entitled
4 to a better position than such powers which not only
5 did not support Japan but laid, wherever they could,
6 obstacles in her way. In any case I did not have the
7 right to leave off from this demand in view of the
8 binding instructions of the Reichsminister. Still the
9 Ambassador asked me to again obtain the opinion of the
10 Reichminister and also referred to the fact that
11 VON RAUMER had promised him another examination, from
12 the legal standpoint of the suggestions which differed
13 from our version. At last I declared myself ready to
14 report to him the final attitude of the Reichsminister
15 and the eventual outcome of this legal examination.

16 "(4) Finally the Ambassador told me that
17 he had been empowered by his government to give the
18 planned Pro Memoria a legally more binding form by a
19 mutual provisional signing. I responded that I would
20 bring this to the notice of the Reichsminister but
21 pointed out that the Reichsminister, as was known,
22 had proposed through VON RAUMER the form of an exchange
23 of notes. The Ambassador was of the opinion that his
24 government considered the form of an exchange of notes
25 impractical on account of the necessary but difficult

1 and time-consuming consent of the Privy Council.

2 "Signed WIEHL."

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1 THE PRESIDENT: Mr. Tavenner.

2 MR. TAVENNER: I now offer prosecution
3 document 4041 in evidence. It is a memorandum
4 by Minister Director Wiehl, bearing date 28 July
5 1938, and relates to trade in China.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 4041 will receive exhibit No. 594.

9 (Whereupon, prosecution's exhibit
10 No. 594 was received in evidence:)

11 MR. TAVENNER: (Reading)

12 "Berlin, 28 July 1938

13 "MEMORANDUM

14 "On 27 July 1938 I went to see the Japanese
15 Ambassador and told him on instructions of the German
16 Reichs Minister, that the Reichs Minister, even after
17 another thorough deliberation, did not find satis-
18 factory the last Japanese proposal for the wording
19 of the 'Pro Memoria' regarding North China, according
20 to which Germany was to be promised only an 'especially
21 favorable' treatment and that he stands on the demand
22 for a promise for 'preferential treatment over against
23 third states.' This demand was merely the natural
24 consequence of the special relation between our two
25 countries and the great sacrifices with which we

1 were supporting the Japanese advance in North China.
2 A treatment which is only 'especially favorable'
3 however, did not sufficiently do justice to this
4 situation.

5 "Several reports from our representatives
6 in China had contributed to the decision of the
7 German Reichs Minister, from which it could be seen
8 that also in the already peaceful part of North
9 China every foreign trade was being ruthlessly
10 eliminated in favor of the Japanese, and that thereby
11 any more favorable treatment of the German trade was
12 in no way taking place. This action induced the
13 impression, that the long range Japanese economic
14 policy in North China systematically lead to principally
15 eliminating every foreign trade, even the German, and
16 only permitting it in so far as Japan itself was
17 not capable of delivery or receipt. As evidence of
18 this I presented the ambassador the note enclosed
19 in copy, in which five cases of complaint are presented
20 and made supplementary oral explanations based on
21 a detailed memorandum regarding the situation of German
22 economic interests in North China, especially regarding
23 the complete exclusion of Germany which has set in
24 since the Japanese occupation in two fields in which
25 we have had a leading position for many years,

1 namely, in the delivery of railroads and the hydro-
2 electric field. It followed from all of this that
3 it was not a question of an especially favorable
4 treatment, not to speak of a preferential treatment
5 of Germany in North China.

6 "I added, that Ambassador OTT would be commiss-
7 ioned to present these complaints in Tokyo and to
8 ask the Japanese government for information regard-
9 ing its intended future economic policy in North
10 China. Ambassador OTT, during his presence here,
11 had also been informed of the course of the dis-
12 cussions here regarding economic cooperation in North
13 China and informed of the differences of opinion
14 which still exist regarding the wording of the Pro
15 Memoria and would, when the opportunity presented
16 itself, on his part inform the Japanese government
17 in Tokyo of the concept of the Reichs Minister.

18 "Especially the latter statement was obviously
19 extremely disagreeable to Mr. TOGO and upon my report
20 on the commissioning of Ambassador OTT, which were
21 at first more indicatory, he posed several counter
22 questions, until I made this commissioning more
23 precise in the manner shown above.

24 "Impartially (speaking), Mr. TOGO objected
25 that he had always done his best to do something

1 about such German complaints re: North China, and
2 in two instances he had even succeeded in the
3 (later findings showed that he had actually gone to
4 some trouble regarding Point 2 of the Appendix, that,
5 however, the Japanese assent which had been given
6 to it was not sufficient). He would now report to
7 Tokyo the complaints enumerated in the appendix and
8 in my oral statements. If up to now no especially
9 favorable treatment of Germany in North China has
10 taken place, then this was related to the fact that
11 an agreement could just not be reached on the Pro
12 Memoria in which this especially favorable treatment
13 was to be agreed upon." --

14 THE PRESIDENT: In line three of that paragraph
15 you just read the phrase "succeeded in the" appears
16 in our copies. Should that read "succeeded in that"?

17 MR. TAVENNER: The word "the" is the correct
18 word; "succeeded in the."

19 THE PRESIDENT: It is senseless. However,
20 it does not matter much.

21 MR. TAVENNER: Yes, sir. It could either
22 be a misprint or it could be an error in the trans-
23 lation. (Reading continued:)

24 "I expressed my astonishment at this remark,
25 pointing out that from general circumstances alone,

1 such an especially favorable treatment even without
2 agreement was understood to be a matter of course.
3 After a few excuses the Ambassador admitted this,
4 maintained, however, that the stopping of war material
5 delivery to China and especially the recall of the
6 military advisors had only come about such a short
7 time ago that the effect of this gesture of friendship
8 could not yet have carried through to (change) the
9 attitude of the Japanese authorities everywhere
10 in North China. He, too, presumed that on account
11 of this gesture of friendship much would now improve
12 of its own accord along the lines of our wishes.

13 "Finally the ambassador made remarks concern-
14 ing other details of the wording of the Pro Memoria,
15 from which I could surmise that he was, nevertheless,
16 very much interested in a further discussion also
17 here on this/subject/, and that he possibly still
18 has one or another concession on hand, which up to
19 now, he has not brought forth. He also inquired as
20 to what attitude the German Reichs Minister had taken
21 to the form of the Pro Memoria, namely execution
22 by mutual signing.

23 "I answered that the Reichs Minister had not
24 taken any attitude towards these other details, as
25 it was of no use to go more deeply into these questions,

1 as long as the main point, namely the demand for
2 preferential treatment was rejected by the Japanese
3 side. But since Mr. TOGO insisted, and as it could
4 be of advantage to find out something about other
5 possible Japanese concessions, and as he seems to
6 be somewhat under pressure by the parallel action
7 of our Ambassador in Tokyo, I at last promised him
8 that I would get the decision of the Reichs Minister
9 regarding continuation of the discussion.

10 "signed WIEHL

11 "To be submitted to the Reichs Minister
12 the Secretary of State."

13 And then another note: "To be submitted to
14 the Reichs Minister, via the State Secretary, with
15 the request for a decision on the last sentence of
16 the memorandum.

17 "Ambassador OTT has been informed by telegraph
18 and asked to raise complaints in the same direction
19 with the Japanese Government. "WIEHL"

20 I now present prosecution document 4041-B
21 in evidence. This is an account bearing date 24
22 July 1938, concerning the situation of German
23 economic interests in the parts of China occupied
24 by Japan, to Minister Director Wiehl. The report
25 is unsigned. It is a captured enemy document from the

1 files of the German Foreign Ministry.

2 THE PRESIDENT: Admitted on the usual terms.

3 CLERK OF THE COURT: Prosecution's document
4 No. 4041-B will receive exhibit No. 595.

5 (Whereupon, prosecution's exhibit
6 No. 595 was received in evidence.)

7 MR. TAVENNER: This document is presented
8 for the purpose of showing that once Japan acquired
9 military control of the areas in China, she subjugated
10 the Chinese economy in those areas.
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1 (Reading):

2 "Account
3 Concerning the situation of German Economic Interests
4 in the parts of China occupied by Japan.

5 "I.

6 "In view of the reactions which the Japa-
7 nese-Chinese conflict inevitably exercises upon for-
8 eign economic interests in China, the Japanese Govern-
9 ment has repeatedly declared its intention to respect
10 these foreign interests and to maintain the principles
11 of the Open Door and the principle of the equal
12 possibilities.

13 "In addition to that the Japanese Government
14 has promised our economic interests in China a prefer-
15 ential treatment in consideration of the special re-
16 lations existing between Germany and Japan and the
17 great friendship which Germany has shown since the con-
18 clusion of the anti-Comintern agreement, through the
19 recognition of Manchuria, the recall of military
20 advisors and the suspension of all war material sup-
21 plies to China.

22 "One could not see clearly what practical
23 consequences these Japanese promises for the German
24 economic interests had as long as the area of TIENTSIN,
25 PEKING and TSINGTAO in North China, and the triangle
Shanghai-Nanking-Hangchow in Middle China were battle

1 areas as long as there was fighting, it was doubtful
2 whether the measures of the Japanese military author-
3 ities were conditioned by war and temporary or whether
4 they were the expression of a policy calculated to be
5 permanent. Now that these territories are for the
6 great part pacified and opened for the admission of
7 Japanese civilians (peddlers, traders and manufactur-
8 ers), the German authorities could gain a clearer
9 picture of the Japanese economic policy in China and
10 its reactions on the German interests. They confirm
11 in numerous reports that the Japanese military author-
12 ities are striving to subjugate the Chinese economy
13 under Japanese domination, to use this economy ex-
14 clusively in the Japanese interest, and to push aside
15 and eliminate all foreign interests.

16 "In this the German interests are treated
17 no better than any other foreign interests. Princi-
18 pally, Japan wants to exploit China only in her own
19 interest. Foreign cooperation only comes then into
20 the question where the Japanese means do not suffice
21 but even there only in a way which guarantees Japan's
22 leadership (Japanese majority in mixed enterprises).
23 Considerable orders are to be given internationally,
24 whereby Germany does not possess any special advantage
25 over other nations. Though the attitude of the Japa-

1 nese military authorities in North and Middle China
2 is basically the same towards German economic inter-
3 ests, a certain difference is shown in the atmosphere's
4 mood: The Kwantung Army which protects the Japanese
5 flank in MANCHURIA and Inner Mongolia against Russia,
6 shows a certain willingness for cooperation with
7 Germany whereas they consciously prejudice themselves
8 over against the English. On the other hand, the com-
9 mercial expert reports about the Japanese attitude
10 in Middle China (V VII 1731 of 23 June):

11 "Whereas the German merchants in North
12 CHINA are shown a certain consideration, the Japanese
13 military and official sources here are apparently
14 ashamed of this friendship, especially over against
15 the English. Instead of avowing oneself openly to
16 it by permitting the German merchants something which
17 one wants to refuse to the others, one only always
18 talks about cooperation with Germany, and this as much
19 as possible in private circles, that is, for the pur-
20 pose of reproaching us or to demand something from us."

21 "Consul General FISCHER has referred the
22 Japanese Consulate General in Shanghai, with which he
23 was negotiating about a few factories which are under
24 German interests preferentially. The Japanese Consul
25 SONE answered to this that the Japanese Consulate had

1 not received any such instructions and that it was
2 impossible to make a distinction in the treatment of
3 the members of the various foreign nations.

4 "Consul General FISCHER - who was specifi-
5 cally characterized by Lt. General OSHIMA as a person
6 approved of by Japanese military authorities - comes
7 to the conclusion that the military authorities 'up
8 to now have not allowed themselves to become discon-
9 certed by all the statements from Tokyo about the
10 respecting of foreign rights and interests in the
11 ruthless utilization of their position of power and
12 have not taken cognizance of the fact that German
13 interests should be treated with care in the strangu-
14 lation of foreign commerce."

15 "2."

16 "The Japanese economic policy aims at the
17 control of all the important industries of North and
18 Middle China. As objects of this national-Japanese
19 policy ~~are~~ named amongst others: shipping railways
20 and other communications, undertakings, mines, salt-
21 production, mills, spinneries and weaving mills, cement,
22 chemical factories, the wool and silk industries.

23 "In practice it has proceeded in the follow-
24 ing way: All public or semi-public installations of
25 the Central Provincial Government and the local ad-

1 ministrations: railways, telephone, telegraph and
2 wireless stations, arsenals and workshops, mines and
3 salt-fields naturally have been seized by the Japa-
4 nese military authorities.

5 "The greater part of factories of private
6 industry have been destroyed. The machines have been
7 taken apart so far as they were still useful and the
8 rest has been sent to Japan as scrap metal. As Consul
9 SONE imparted to the German Consul General, Japan
10 wants to retain the power for the decision whether
11 the development of certain industries in China should
12 be permitted at all, which would be regulated accord-
13 ing to the requirements of the Japanese economy.

14 "As far as the Chinese factories are still
15 existing, they will be taken over by the Japanese.
16 For instance, the cotton spinning industry of Middle
17 China has thus been taken over by Japan and has been
18 divided up for management by Japanese Spinning mills.

19 "Usually this happened in such way that one
20 day Japanese engineers, most of the time with mili-
21 tary escort, appeared, hoisted the Japanese flag and
22 put up signs on which it was announced that the factory
23 was now a Japanese enterprise. The Japanese emphasized
24 that they only aspire to 'cooperation' with the
25 Chinese owners who are invited to bear the repair

1 expenses, which are usually considerable, to agree
2 to the appointment of a Japanese manager and a tech-
3 nical adviser and to be content with a partition of
4 the net proceeds (W VII 1876).

5 "Should the Chinese owners object, then they
6 are put under pressure either by refusal of admission
7 to the factory buildings and other administrative
8 measures or the resumption of the management takes
9 place without Chinese consent. In this procedure it
10 is not the arbitrary acts of individual military
11 authorities, but they are the systematic attempt,
12 which is approved by the Japanese Government to manage
13 Chinese industry - as far as it is permitted - in
14 'cooperation' with the Chinese as a Japanese monopoly.
15 That Japanese enterprises in China are to be erected
16 on the basis of special privileges also follows,
17 among other things, from article 11 of the Japanese
18 law concerning the North and Central China Develop-
19 ment Co. which states:

20 "The Government shall make efforts to
21 make the new Government of China consider granting
22 special treatment to the proposed company and its
23 affiliates."

24 "The results of this Japanese policy are
25 very serious for the German commercial activity in

1 China. How incisive they are, is already shown by
2 contemplating two fields which the Japanese want to
3 reserve for themselves. Railways and Electricity.

4 "In the field of railway construction.

5 Germany has always been active and has participated to
6 a great extent since the building of the SHANTUNG and
7 the Tientsin-Pukow railway. Germans were the first
8 who again took up the railway enterprise after the
9 establishment of the Chinese national government and
10 who, with the assistance of middle termed delivery
11 credits made possible the building of the Hangchow-
12 Yashan-Menchang-Pinghsiang railway. It was expected
13 that in a nationally united China a grand develop-
14 ment of communications would take place and that
15 Germany, together with England, would take a prom-
16 inent part in it.

17 "On 15 June of this year, 7,000 kilometers
18 of the estimated 11,000 kilometers of the railroad
19 lines were under Japanese control. Now they are run
20 by the South Manchurian Railway Co. The Japanese
21 saw themselves forced to procure an 'Ersatz' because
22 the Chinese could have taken with them nearly the
23 entire rolling stock, and have ordered first of all
24 250 locomotives and 10,000 coaches in Japan. The
25 orders went exclusively to Japan. It is to be ex-

1 pected that the future orders will also go to Japan
2 and that we will lose the old Chinese railways as
3 customers.

4 "In addition to this the receipts of the
5 Tientsin-Pukow line for the loans of 1908 and 1910
6 and the receipts of the Peking-Hangkow line for a
7 number of middle termed delivery credits were mort-
8 gaged to us. These lines at present have no receipts.
9 In order to maintain our rights, after the English
10 have availed themselves of the use of the Tientsin-
11 Pukow and Hukuang loans from Japan on the 2nd of May
12 of this year, we have demanded the same treatment for
13 the German shares of these loans as well as the ad-
14 vance (1,670,000) on the Tientsin-Pukow lines. The
15 Japanese Government up to now has not answered this
16 demand."
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1 "In the field of Chinese hydroelectricity
2 the SIEMENS company has had a leading position for
3 many years. According to what the firm reports now,
4 one can already clearly see today that Japan is not
5 going to draw any non-Japanese firms in the future
6 into the Chinese territories occupied by Japan,
7 and that she is going to let the Nihon"-- . . .

8 That next word is a misspelling. It should
9 be "Tenshin," T-e-n-s-h-i-n.

10 (Reading, continued): --"Tenshin Koji
11 Kabushiki Kaisha (half national and half pertinent
12 industry) carry out all supply and construction jobs.
13 Examples of the Japanese advance already exist:

14 "a) At the time of the outbreak of the
15 conflict, a delivery of enlargement equipment had
16 just arrived for the automatic telephone exchange
17 which had been built by Siemens and Halske. The
18 Japanese did not accept these, but ordered a new
19 automatic exchange from the Nihon"--

20 THE PRESIDENT: We will take it as read.

21 MR. HYDE (Reading continued): "-- Tenshin
22 Danwa Kabushiki Kaisha.

23 "b) The same firm received orders for
24 deliveries for two public automatic telephone ex-
25 changes in Shanghai.

1 "c) The same firm participated in the founding
2 of a company for news exchange in Kelgan together
3 with a 'Mongolian Government' (Kwentung Army) and
4 received the order for a public automatic telephone
5 exchange.

6 "d) Up to now SIEMENS and HALSKE was
7 almost exclusively the only firms supplying telephone
8 and telegraph equipment for manifold utilization of
9 overland wires. In the territories occupied by
10 Japan such orders are only given to Japanese firms
11 from now on. (Up to now two three-channel telephone
12 constructions for North China and one one-channel
13 telephone for Tientsin-Peking.)

14 "From the examples given above one can
15 clearly see that the German firm has been entirely
16 pushed out by the Japanese from fields, which in
17 the past have been its steadily huge customers.

18 "It is to be feared that we will make
19 the same experience on all fields where Japanese
20 monopolies prevail, until finally Japanese occupied
21 China will be just as closed to our commerce as
22 Korea or Formosa.

23 "B. Outside of the official offices
24 which ordered railways, hydro-electric and water
25 power plants, mine and arsenal equipment in Germany

1 the Chinese private industry was our best customer.

2 "Due to the Japanese action in the industrial
3 field described above, the Chinese private industry
4 is mainly ruined. German trade has been heavily
5 damaged by the fact that many Chinese factory
6 owners became unable to pay, so that they could not
7 accept ordered goods and could not pay them and that
8 for the future they had been eliminated as customers.
9 Most of them will be forced to buy in Japan in the
10 future if they want to continue working.

11 "In a few cases where long-termed business
12 relations existed and where the German demands on
13 Chinese undertakings were especially large, the
14 German firms had constituted liens for themselves
15 in the undertakings or had transferred them to them-
16 selves for security. Their number is not large,
17 because the Consul General in Shanghai watched
18 carefully that such cessions were 'bona fide' and
19 that they were commercially justified and not
20 fictitious bargains. In the main it concerns
21 the following cases:

22 "German Paint-Trading Co. WAIBEL & CO.

23 "Five dye-works. They were established
24 by Chinese who are close to DEFAG, in order to in-
25 troduce new dyeing methods, and were technically

1 taken care of by the DEFAG. The DEFAG had high
2 claims on all of them. In order to secure these,
3 DEFAG took a mortgage on the dye works in the
4 summer of 1937 and in December had it transferred
5 for security's sake. The Japanese do not want to
6 recognize the transfer. Furthermore they prevent
7 the resumption of work of the 2, 4 and 5 works.

8 "SIEMSEN & CO.

9 "Shanghai Portland Cement Works. Many
10 years of close business contracts and high claims
11 by SIEMSEN. Transfer for security's sake on 27
12 October 1937. The Japanese have removed the inven-
13 tories of goods and part of the machines; they do not
14 recognize the transfer. SIEMSEN fears that it will
15 be taken over by force by the Japanese.

16 "CARLOWITZ & CO.

17 "Shun Chang Stone Pulverizing Works.
18 China Wool Manufacturing Co., Ltd. Many years
19 of business contacts and high claims by CARLOWITZ.
20 Transfer of property not recognized by Japanese.

21 "The mortgaging and transference, respect-
22 ively, of these works has been reported to the
23 Japanese Consulate General in each case, with the
24 result that their systematic plundering generally
25 stopped in front of those enterprises under the

1 German flag. When the German firms wanted to start
2 running these enterprises again, it was not possible
3 to get the necessary permission from the Japanese
4 Consulate General, and the Japanese Military Authorities
5 began to get serious about the seizure of these works.
6 Therefore, the German Consulate General found itself
7 forced to take up negotiations with the Japanese
8 Consulate General. At this occasion the Japanese
9 Consul SONE took the following attitude:

10 "a) No distinction would be made in
11 Germany's favor in the treatment of the various
12 foreign nations;

13 "b) The efficacy for the transfer of
14 property from Chinese to German nationals depends
15 upon recognition by the Japanese.

16 "Japan was in a position to enforce its
17 will by refusing work permits or other measures,
18 which, if necessary, could be taken by the newly
19 set up Chinese Government. The lack of a judicial
20 foundation for this procedure was expressly confirmed.
21 As reason for Japan's attitude Consul SONE stated
22 that the sought-for Chinese-Japanese 'Cooperation'
23 would be hindered if the Chinese would find safety
24 behind foreign firms.

25 "Councillor of Embassy Fischer defended

1 the judicial standpoint that German firms, even if
2 they possessed no claims against a Chinese firm,
3 were entitled to acquire property from same, and
4 that for this no Japanese permission was necessary;
5 however, declared himself willing to enter into
6 further discussions with the aim of finding a solution
7 locally. In view of the well-known economic policy
8 of the Japanese military authorities he is, however,
9 convinced that in the long run a basic discussion is
10 unavoidable with the Japanese Government regarding
11 the conflicts with the legitimate German interests,
12 arising from their economic policy.

13 "c) The German economic activity in the
14 Japanese occupied territories is generally encroached
15 upon in that the Germans, just as the rest of the
16 foreigners, are prohibited from entering into the
17 territories already pacified, whereas they are
18 visited by groups of Japanese peddlers, traders
19 and other civilians. This applies to North China
20 along the Peking-Pootou railway as well as to the
21 triangle Shanghai-Nanking-Hangchow.

22 "In Inner Mongolia, the Kwantung Army has
23 ordered the representatives of the firm MELCHERS &
24 CO. to leave the area at once 'as this was necessary
25

1 for the personal safety of the employee', although
2 Japanese businessmen go on working there as before.
3 Thus the buying organizations of the German firm,
4 which for many years has bought wool and skins there
5 are paralyzed, and the business has been concluded
6 into the hands of a Japanese Monopoly Company. The
7 same measures have been taken in MANCHURIA where the
8 MANCHURIAN LIVESTOCK CO. has received a monopoly.

9 "The provisional government in PEKING
10 has further declared that the export of skins and
11 furs from the ports of TIENTSIN, CHEFOO, and TSINGTAO
12 is prohibited, on 30 June of this year. The German
13 firms, which have about a 50% share in this export,
14 are heavily damaged by this. The German Chamber
15 of Commerce in Tientsin requests remonstrances
16 to the Japanese Government, as this measure was
17 taken at the inducement of the Japanese in the
18 interests of Japanese war economy. A prohibiting
19 of the export of cotton is said to be imminent.

20 "3-

21 "All in all the reports of the German
22 officials in North and Middle China show that the
23 German economic interests in China are worse off
24 in the Japanese occupied areas than was
25 ever the case in national

1 China, even at the time of the sharpest anti-
2 imperialistic Kuomintang propaganda. This fate
3 is shared by the Germans with all other foreign
4 interests. However, no signs of a preferential
5 treatment of the German interests by Japan are
6 to be found.

7 "Part of the injuries under which the
8 German economic interests suffer are certainly to
9 be traced to the war situation and the urgent
10 critical situation, which forces Japan to take
11 measures which otherwise it would not take. In
12 the main, however, it concerns measures which
13 originate from a consequential economic policy
14 of Japan and aim at the abolition of all foreign
15 influences in China. The example of Korea and
16 Formosa shows where this development will lead
17 to if we do not defend our interests with all our
18 vigor.

19 "The Japanese have promised us, at the very
20 least de facto, a preferential position. The facts give
21 us the right to ask Japan in what respect it has carried
22 out these promises and how it intends to carry them out,
23 and what the attitude of this preferential position will
24 be toward the status quo ante.

25 "Herewith respectfully submitted to Ministry

1 Director Wiehl.

2 "Berlin, 24 July 1938."

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1 THE PRESIDENT: Mr. Tavenner, this may be
2 relevant to an issue, but at present I cannot see
3 that it is. Up to the time of the presentation of
4 this document you were at pains to point out the strong
5 and hearty cooperation between Germany and Japan. Now,
6 you are emphasizing their differences. You may an-
7 swer that this goes merely to show the Japanese
8 conduct in China regardless of the attitude of their
9 colleagues or their allies, the Germans and the
10 Italians; but it seems to me to be quite irrelevant
11 to any issue to show how the Japanese refused to
12 share the spoils that they got in China. This docu-
13 ment shows that they did not share the spoils. This
14 is very interesting, but I am afraid you are putting
15 in the record a lot of stuff which will not be very
16 helpful. It is the sort of material the defense
17 might use to show lack of cooperation between Japan
18 and Germany. However, I have not formed any final
19 conclusion about this personally. I do not know what
20 my colleagues think, but I think we would all be
21 assisted by your view.

22 MR. TAVENNER: I am very glad to state, if
23 your Honor please, that the reason that this particu-
24 lar document was chosen to put in evidence is not so
25 much the question of what they did with the spoils as

1 the fact that they did actually collect spoils and
2 that this document --

3 THE PRESIDENT: I can well understand that,
4 but you have quoted a lot of material which goes far
5 beyond that and shows the ill-treatment, if it could
6 be called such, meted out to their German ally.

7 MR. TAVENNER: There is probably no docu-
8 ment in our estimation which shows more clearly the
9 economic aggression of Japan in China. It was in-
10 tended originally to place it in evidence in the
11 phase of the case dealing with that subject, but
12 was not processed in time for it.

13 THE PRESIDENT: It certainly is out of
14 place here, but so far as it is relevant you are
15 entitled to read it; but it is relevant only so far
16 as it does show that Japan helped herself in China,
17 not so far as it shows she refused to share the
18 spoils with the Germans.

19 MR. TAVENNER: I should possibly point out
20 also that it is not our position that Germany and
21 Japan at all times saw eye to eye and cooperated
22 completely to the satisfaction of each.

23 THE PRESIDENT: Equally, it is not your
24 province to show they did not cooperate. You should
25 leave that to the defense.

1 However, you have completed the document now.
2 I have in mind future documents of that kind, if there
3 be any.

4 MR. TAVENNER: I offer prosecution's docu-
5 ment 4043-F in evidence. It is a telegram from the
6 German Ambassador in Tokyo relating to this same
7 subject matter, and suggests the final conclusion
8 and answer to the question we have just discussed
9 about cooperation in China. It is an extract from
10 a letter instead of a telegram.

11 THE PRESIDENT: Admitted on the usual terms.

12 CLERK OF THE COURT: Prosecution's document
13 4043-F will receive exhibit No. 596.

14 (Whereupon, the above-mentioned docu-
15 ment was marked prosecution's exhibit No. 596
16 and received in evidence.)

17 MR. TAVENNER (Reading): "Extract from a
18 letter of Ambassador OTT - TOKYO - of 15 March, 1939
19 to Ministerial Director WIEHL.

20 ". In the question of our preferen-
21 tial treatment in China I was able to gather from
22 conversations in the Foreign Ministry that Ambassa-
23 dor OSHIMA has actually telegraphed repeatedly in
24 accordance with our interests. Generally I have the
25 impression that one is not inclined to admit in

1 writing the preferential treatment. As a way out,
2 one is thinking of a de facto preferential treatment
3 which is to be confirmed solely by actual deeds with-
4 out written fixation. However, the actual deeds
5 offered by Japan up to now are not very encouraging.
6"

7 THE PRESIDENT: We will recess now for
8 fifteen minutes.

9 (Whereupon, at 1045, a recess was
10 taken until 1100, after which the proceedings
11 were resumed as follows:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Tavenner.

4 MR. TAVENNER: Prosecution document 1024-A is
5 a basic document and is in evidence as exhibit 39.
6 It is an agreement regarding trade between Japan and
7 Germany, but was not formally signed. The price
8 fixing provisions are called to the Tribunal's at-
9 tention. I will read first through Article 2:

10 "Agreement Regarding Trade between Japan
11 and Germany.

12 "The Government of Japan and the Govern-
13 ment of Germany, in due consideration regarding the
14 import and export of both countries, have reached
15 the following agreement in the hope of promoting
16 mutual trade and to bring about its development for
17 the benefit of both countries so as to meet present
18 economic conditions.

19 "Article 1. The Government of one of the
20 two countries shall permit, under ordinary transac-
21 tions, the importation, during each fiscal year, of
22 the products of the other country, according to the
23 articles and prices agreed upon for each fiscal year
24 by competent authorities of the two countries. The
25 payment for the products mentioned above shall be

1 made by liquidation decided upon by the agreement of
2 competent authorities of the two countries, or by
3 free foreign exchange.

4 "Article 2. The Government of one of the
5 two countries shall permit, under 'special transac-
6 tions' to be added to the 'ordinary transaction'
7 mentioned in the preceding article, the importation
8 of the products of the other country according to
9 the articles and prices agreed upon by competent
10 authorities of the two countries during the term of
11 this Agreement. The payment for the above products
12 shall be made by liquidation or credit as decided by
13 the agreement of competent authorities of the two
14 countries."

15 I will now read Article 4:

16 "Article 4. The Government of one of the
17 two countries, in order to prevent unreasonable rise
18 in the price of products of its own country to be
19 exported to the other country, shall take appropriate
20 measures by always considering the price of the same
21 products in a third country.

22 "Article 5. The Governments of both coun-
23 tries shall strive to complete within the term of
24 this Agreement, the delivery of goods ordered in
25 'special transactions.'"

1 Article 13:

2 "Article 13. The provisions of this Agree-
3 ment shall be applied to all areas belonging to or
4 under the protection of one of the two countries.
5 The protectorates of Bohemia and Moravia, however,
6 shall be outside the application of this Agreement.

7 "Article 14. This Agreement shall take
8 effect on the first of October, 1939, and shall be
9 valid till the thirtieth of September, 1941."

10 I offer prosecution's document 4042 in
11 evidence - 4042-E. It is a memorandum for Ministerial
12 Director Wiehl, bearing date 3 October 1940, and
13 relates to trade between Japan and Germany.

14 THE PRESIDENT: Admitted on the usual terms.

15 CLERK OF THE COURT: Prosecution's document
16 No. 4042-E will receive exhibit No. 597.

17 (Whereupon, the document above re-
18 ferred to was marked prosecution's exhibit
19 No. 597 and received in evidence.)

20 MR. TAVENNER: It is offered for the pur-
21 pose of showing, one: close economic cooperation
22 between Japan and Germany in the field of war
23 materials, and, two: that Japan contemplated at the
24 time of the conclusion of the Tripartite Pact that
25 the fact of conclusion of such treaty would react

1 unfavorably against Japan's trade. Memorandum from
2 Wiehl, dated 8 October, 1940. (Reading):

3 "I informed the Japanese Ambassador on 4
4 October that we would like to make use of his offer,
5 that Japan could buy raw materials from Netherlands
6 East Indies for us, in excess of her own demands
7 and pass them on to us. Regarding details of our
8 wishes I handed him a note with the following con-
9 tents: '3 million reichsmark in foreign bills of
10 exchange for tin, rubber and castor-oil plants' seeds
11 or castor oil. 1 million reichsmark in foreign bills
12 of exchange for about 1,000 tons of spices. In the
13 first place information is requested on the quantities
14 that can be delivered, and the time of delivery. The
15 amounts of foreign bills of exchange could be paid
16 in full to the working association of the three
17 biggest Japanese business concerns for a receipt
18 and a declaration of obligation that the goods con-
19 cerned would be handed over within a period of two
20 months to the confidant on the German side in Dairen
21 (Manchukuo). In the event of a part of the goods
22 not being delivered before the expiry of the period
23 of time, the firms promise to pay back the equivalent
24 of the undelivered parts immediately in foreign bills
25 of exchange according to German choice.'

1 "The Japanese Ambassador promised to
2 telegraph my information to his government. He re-
3 marked, he would then suggest to his government that
4 on acquiescence of our proposal on its part, it ex-
5 presses the desire to obtain an enlarged market in
6 Germany and the countries occupied by Germany or
7 those economically dependent on Germany for such
8 Japanese products, which Japan, due to the reaction
9 to the Tripartite Pact, will probably not be able
10 any more to sell in countries of English-American in-
11 fluence, to the previous extent. With regard to this
12 I told the Ambassador that we would be pleased to
13 examine such wishes. Signed Wiehl."
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1 As the last document relating to economic
2 collaboration under the Tri-Partite Pact, I offer in
3 evidence prosecution's document No. 4024A. It is a
4 draft of a work program for the economic subcommis-
5 sion of the Tripartite Pact in Berlin.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 4024A will receive exhibit no. 598.

9 (Whereupon, the document above referred
10 to was marked prosecution's exhibit No. 598 and
11 received in evidence.)

12 MR. TAVENNER: The purpose of its introduction
13 is to show that as early as April, 1941, the machinery
14 saw set up under the provisions of the Tripartite Pact
15 for close cooperation in military and economic warfare.

16 (Reading)

17 "Secret State Affair. Berlin, 28 April 1941.
18 Draft.

19 "Work Program for the Economic Subcommission
20 of the Tripartite Pact in Berlin.

21 "I) The economic subcommission has the task
22 of advising what can be done between the countries
23 belonging to the Tripartite Pact in order to secure
24 mutual support, especially in the economic field, in
25 war and in the postwar period. It lays down the results

1 of its deliberations in proposals to the main commis-
2 sion. The individual negotiations necessary for the
3 execution of the proposals after these have been approved
4 by the main commission, will be conducted directly
5 between the participating governments.

6 "II) The economic subcommission will be
7 charged with examining the possibilities of an accord
8 and mutual support at first in the following fields:

9 "1) In waging the commercial and economic
10 war by economic measures (military measures are dealt
11 with by the military subcommission).

12 "2) In the procurement of raw materials.

13 "3) In construction and extension of plans
14 for military and defense economy preparations.

15 "4) In the utilization and extension of trade
16 routes.

17 "5) In the promotion of economic combinations
18 between the states belonging to the Tripartite Pact.

19 "III) The examinations and proposals are at
20 first to include the measures practicable and necessary
21 for the period of the present war, but should also al-
22 ready now extend as far as possible to the preparations
23 for the postwar period.

24 "IV) In the beginning the possibilities
25 existing between the three main powers are to be

1 examined, but already now, as far as it is possible
2 and necessary, the participation of the other states
3 which have joined the Tripartite Pact is to be considered.

4 "Internal Explanations.

5 "On 1) to 5)

6 "On 1) Meant is, for instance, exchange of
7 economic information between the governments and their
8 representatives in neutral countries, supervision of
9 the trade of neutral countries with enemy countries,
10 control of interference purchases in neutral countries,
11 common economic pressure on neutral countries, economic
12 measures to deprive the enemy of shipping space,
13 measures against enemy property, common economic
14 defence against foreign measures such as freezing of
15 credit, confiscation of ships, etc. Whether joint
16 measures for the running of the enemy blockade should
17 be dealt with by the military or economic subcommission
18 remains to be decided.

19 "On 2) Mutual support in the procurement of
20 raw materials will have to extend to purchasing, trans-
21 porting and financing. Regarding transport measures
22 compare No. 4.

23 "On 3) Meant is mutual transmission of patents
24 and licenses, granting of technical assistance,
25

1 partnerships regarding capital.

2 "On 4) Meant is:

3 "a) Question concerning railways, for instance
4 syntonisation of negotiations with Soviet Russia
5 regarding use of the Siberian railway. In doing this
6 the keeping secret of our arrangements with Russia must
7 not be endangered. Therefore Italian procurements
8 from the Far East by the Siberian railway must not
9 come to light.

10 "b) Questions of shipping, for instance im-
11 provement of the Japanese shipping lines to Vladivostok,
12 the transport of raw materials from the Netherlands-
13 Indies, Thailand, Indo-China, and China to Japan;
14 later on also accord in the operation of the main routes
15 of world shipping.

16 "c) Questions regarding air transport, for
17 instance establishment of the air-route Rome-Berlin-
18 Tokyo, later on also accord regarding the main routes
19 of world air transport.

20 "On 5) Meant is, for instance, removal of
21 orders and measures hindering or limiting exchange
22 of goods; setting up of principles for future loan
23 and currency policy, etc. To put the promotion of
24 commercial intercourse also between the countries and
25 areas under the de jure or de facto supremacy or the

1 influence of Germany, Italy, and Japan, already now
2 on the order of the day is not recommended, because
3 that might lead to the discussion of questions not yet
4 ripe for judgment, as, for instance, incorporation of
5 the Netherlands Indies in the Great East Asia Sphere,
6 direct trade of Germany with the countries of the
7 Great East Asia Sphere, etc."

8 Now I have two more or less formal documents
9 to present. 2670 is the first. It is a communication
10 from Hitler and Ribbentrop to the Emperor of Japan
11 on 5 April 1938, advising of the appointment of Major
12 General Eugen Ott as ambassador to fill the post made
13 vacant by the recall of Ambassador Von Dirksen.

14 THE PRESIDENT: Admitted on the usual terms.

15 CLERK OF THE COURT: Prosecution's document
16 No. 2670 will receive exhibit No. 599.

17 (Whereupon, the document above referred
18 to was marked prosecution's exhibit No. 599 and
19 received in evidence.)

20 MR. TAVENNER: (Reading)

21 "Adolf Hitler, German Chancellor to,

22 "His Majesty, The Emperor of Japan.

23 "Your Majesty:

24 "Prompted by the desire to fill again the post
25 of German Ambassador in Tokyo which was vacant owing

1 to the recall of Ambassador Dr. Von Dirksen, I have
2 resolved to confer this post on Major General Eugen
3 Ott.

4 "His tested qualities entitle me to expect
5 that he will succeed in presenting to Your Majesty
6 this letter which is to accredit him as my envoy extra-
7 ordinary and plenipotentiary.

8 "I beg you to receive him with good will,
9 fully trusting everything that he will be called upon
10 to state in my name or on orders of the German Govern-
11 ment.

12 "I avail myself of this opportunity to assure
13 Your Majesty of my complete respect and sincere friend-
14 ship, at the same time expressing my best wishes for the
15 well being of Your Majesty and the happiness and welfare
16 of Japan.

17 "Fundbruck, 5 April 1938.

18 (Signed) "A. Hitler Ribbentrop."

19 I now offer in evidence prosecution's document
20 No. 2671. It is a letter from the German Ambassador
21 in Tokyo to the Vice Foreign Minister, that is, the
22 Japanese Vice Foreign Minister, of 5 March 1941. It
23 shows that Erich Boltze is minister in the German
24 Embassy in Tokyo.

25 THE PRESIDENT: Admitted on the usual terms.

1 CLERK OF THE COURT: Prosecution's document
2 No. 2671 will receive exhibit No. 600.

3 (Whereupon, the document above referred
4 to was marked prosecution's exhibit No. 600 and
5 received in evidence.)

6 MR. TAVENNER: (Reading)

7 "Tokyo, 5 March 1941.

8 "To the Vice Foreign Minister: Sir,

9 "I am honored to inform Your Excellency that
10 I will leave Tokyo today and will go to Germany for a
11 short time in order to take part there in the conver-
12 sations of the Imperial Japanese Foreign Minister,
13 Mr. Yosuke MATSUOKA, with The Fuehrer and Chancellor
14 and the leaders of the German Government.

15 "During my absence the plenipotentiary minister
16 Dr. Erich Boltze will conduct the business of the
17 Embassy in the nature of a temporary charge d'affaires.

18 "I avail myself of this occasion for again
19 assuring Your Excellency of my high esteem.

20 "Ott.

21 "His Excellency, The Imperial Japanese Vice
22 Foreign Minister, Mr. OHASHI."

23 If the Tribunal please, this brings us to the
24 last phase of the presentation of Japanese-German-
25 Italian collaboration.

1 THE PRESIDENT: Mr. Hyde.

2 MR. HYDE: If the Court please, I will take
3 up the phase dealing with the No Separate Peace Pact
4 and the military agreement between Japan, Germany, and
5 Italy. I call the Tribunal's attention to exhibit 552
6 in which Foreign Minister MATSUOKA during the meeting
7 of the Privy Council on 26 September 1940, in reply
8 to a question, said that the agreement would be
9 negotiated between the three powers for a no separate
10 peace pact in the event of hostilities.

11 I now offer in evidence prosecution's docu-
12 ment 4070B. This is a telegram from Ribbentrop which
13 shows that Japan sought advice from Germany on 18 Nov-
14 ember 1941 as to whether Germany would agree not to
15 conclude a separate peace or armistice with the United
16 States in case Japan became involved in war against the
17 United States, and also that an agreement not to con-
18 clude a separate peace would be made by Germany in the
19 event Japan commenced the war and regardless of the
20 reason for the war.

21 THE PRESIDENT: Admitted on the usual terms.

22 CLERK OF THE COURT: Prosecution's document
23 No. 4070B will receive exhibit No. 601.

24 (Whereupon, the document above referred
25 to was marked prosecution's exhibit No. 601 and

1 received in evidence.)

2 MR. HYDE: I will read exhibit 601.

3 "Copy.

4 "Westphalia, 21 November 1941.

5 "Diplogerma.

6 "Tokyo. No. 2136.

7 "Telegram in Cipher. (Secret Cipher Process)

8 "In regard to telegram No. 2472 of 18 November.

9 "I ask you to inform verbally the leader of
10 the division of Foreign Armies yourself, or, if you
11 consider it to be more correct, through the military
12 attache, of the following in regard to his remarks.

13 "You had made a report on this statement to
14 Berlin and you were told that the idea there of con-
15 cluding peace or armistice only jointly in case Japan
16 or Germany becomes involved in war against the United
17 States, no matter for what reason, is looked upon as
18 natural and that one would be entirely willing to put
19 down a corresponding statement in an agreement to be
20 made for this case.

21 "Telegraphic Report on execution.

22 (Signed) "Ribbentrop."

23 I offer in evidence prosecution's document
24 No. 4070. It is a telegram from the German Ambassador
25 in Tokyo and is being introduced for the same purposes

1 as the telegram just read.

2 THE PRESIDENT: Admitted on the usual terms.

3 CLERK OF THE COURT: Prosecution's document
4 No. 4070 will receive exhibit No. 602.

5 (Whereupon, the document above referred
6 to was marked prosecution's exhibit No. 602 and
7 received in evidence.)
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1 MR. HYDE: I will read exhibit No. 602.

2 "To be kept in locked file. Telegram
3 (Secret Cipher Process) Tokyo, 23 November 1941;
4 Arrived 24 November 1941. Most Urgent.

5 "For the Reich Foreign Minister.

6 "In answer to telegram No. 213 of 21st.

7 "I first informed General OKAMOTO orally
8 through the military attache of the above tele-
9 graphic instructions, adding that I was myself
10 prepared for discussions any time.

11 "General OKAMOTO then asked to be receiv-
12 ed by me and in a subsequent conversation made
13 the following statement:

14 "The Japanese Minister of War expressed
15 his deepest gratitude for the statements made
16 through the Military Attache. He, OKAMOTO, was
17 very pleased to find that the fact once more con-
18 firmed that Germany would not leave Japan in the
19 lurch in case of a conflict with the United
20 States. He asks for information whether, in
21 my opinion, Germany would likewise consider her-
22 self to be at war with the U. S. in the event
23 of a Japanese commencement of war against her.
24 I referred to the formulation of the above-men-
25 tioned telegraphic instructions and to our readi-

1 ness to conclude a reciprocal agreement on this
2 matter.

3 "OKAMOTO declared the army /Wehrmacht/
4 assumed that a decision would soon be made on
5 an advance in the South. To be sure, the re-
6 sult of the KURUSU-talks would have to be awaited
7 first. Even if no final time limit had been
8 set for these discussions, the army surely in-
9 sists on speeding up since the season favorable
10 for an operation in the South was imminent.

11 "With regard to operational intentions,
12 I got the following impression from the conver-
13 sation. A surprise occupation of Thailand about
14 as far as the Kra Isthmus seems to be planned.
15 At the same time seizure of the oil wells of
16 North and East Borneo should take place. It
17 seems not yet to have been decided how the Phil-
18 ippines should be dealt with. I explained, in
19 connection with earlier instructions that, with
20 the presupposition of the preparation of suffi-
21 cient forces, in view of American weakness, a
22 hesitant attitude would be initially possible
23 and suitable, in order to drive the U.S. to a
24 decision, difficult from the domestic political
25 standpoint, on entry into the war. I further

1 pointed to the necessity of stopping American
2 supplies to Vladivostok, which appeared to be
3 obvious to OKAMOTO.

4 "OKAMOTO expressed his thanks for my
5 statements, and declared he hoped to be able
6 to inform me soon of the result of further de-
7 liberations of the army. He requested me to
8 treat the conversation confidentially and in the
9 first place to confine /it/ to army /Wehrmacht/
10 channels.

11 "I got the impression from the conversa-
12 tion that discussions within the army /Wehrmacht/
13 had become much more concrete, but that a decision
14 on the question of an advance in the South had
15 not yet been reached."

16 I now present for identification only, docu-
17 ment 2593, which is a file containing a number of
18 intercepted messages, to which is attached a certifi-
19 cate from the War Department of the United States,
20 General Staff Intelligence Division.

21 THE PRESIDENT: It will be marked for iden-
22 tification.

23 CLERK OF THE COURT: Prosecution's document
24 No. 2593 will be given exhibit No. 603, for identifi-
25 cation only.

1 (Whereupon, the document above
2 referred to was marked prosecution's exhibit
3 No. 603 for identification.)

4 MR. HYDE: I now offer in evidence prosecution
5 document 2593-A, which is a copy of one of the items
6 included in exhibit 603 for identification. This is
7 an intercepted message from Berlin to Tokyo, dated
8 29 November 1941. It is offered to show, (1) That
9 if Japan should reach a decision to fight the United
10 States, Germany would join the war immediately; and
11 (2) There was no possibility of Germany entering into
12 a separate peace with the United States.

13 THE PRESIDENT: Admitted on the usual terms.

14 CLERK OF THE COURT: Prosecution's document
15 No. 2593-A will receive exhibit No. 603-A.

16 (Whereupon, the document above
17 referred to was marked prosecution's exhibit
18 No. 603-A, and was received in evidence.)
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1 I read exhibit No. 603-A.

2 "From: Berlin

3 "To: Tokyo

4 "29 November 1941

5 "#1393 (in 3 parts, complete)

6 "By his request, I was supposed to have
7 called on Foreign Minister Ribbentrop during the
8 evening of yesterday, the 28th. Suddenly, however,
9 he requested that the time be postponed and it was not
10 until 10:30 at night that I finally saw him.

11 "This delay was occasioned by the fact
12 that a long conference of the bigwigs of the govern-
13 ment and military, from Goering down, was being held
14 at the official residence of the Fuehrer. The war
15 against the Soviet Union has now taken definite
16 shape and the outcome can be unerringly foretold.
17 Next year's campaigns were mapped at this conference,
18 taking into consideration the points brought up at
19 the conference of the various Prime Ministers and
20 Foreign Ministers of Europe. It is an absolute cer-
21 tainty that Japan's moves were also given discussion
22 at this conference.

23 "1. Ribbentrop opened our meeting by
24 again inquiring whether I had received any reports
25 regarding the Japanese-U.S. negotiations. I replied

1 that I had received no official word.

2 "Ribbentrop: 'It is essential that Japan
3 effect the New Order in East Asia without losing this
4 opportunity. There never has been and probably never
5 will be a time when closer cooperation under the Tri-
6 partite Pact is so important. If Japan hesitates at
7 this time, and Germany goes ahead and establishes
8 her European New Order, all the military might of
9 Britain and the United States will be concentrated
10 against Japan.

11 "'As Fuehrer Hitler said today, there are
12 fundamental differences in the very right to exist
13 between Germany and Japan, and the United States.
14 We have received advice to the effect that there is
15 practically no hope of the Japanese-U.S. negotiations
16 being concluded successfully, because of the fact that
17 the United States is putting up a stiff front.

18 "'If this is indeed the fact of the case,
19 and if Japan reaches a decision to fight Britain and
20 the United States, I am confident that that will not
21 only be to the interest of Germany and Japan jointly,
22 but would bring about favorable results for Japan
23 herself.'

24 "'I: 'I can make no definite statement as
25 I am not aware of any concrete intentions of Japan.

1 Is Your Excellency indicating that a state of actual
2 war is to be established between Germany and the
3 United States?" "

4 "Ribbentrop: 'Roosevelt's a fanatic, so it
5 is impossible to tell what he would do.'

6 "Concerning this point, in view of the fact
7 that Ribbentrop has said in the past that the United
8 States would undoubtedly try to avoid meeting German
9 troops", and from the tone of Hitler's recent speech
10 as well as that of Ribbentrop's, I feel that German
11 attitude toward the United States is being consider-
12 ably stiffened. There are indications at present
13 that Germany would not refuse to fight the United
14 States if necessary.

15 " (Part 2)

16 "2. I made inquiries as to the future of
17 the war against the Soviet Union.

18 "Ribbentrop: 'The Fuehrer has stated that
19 he is now determined to crush the Soviet Union to an
20 even greater extent than he had planned at first. He
21 is now bent on completely wiping out that state and
22 went on to announce that practically all of the main
23 military objectives had been attained and that a
24 greater part of the German troops would shortly be
25 brought back to Germany.'

1 "Following up those campaigns, the Cau-
2 casus campaign will be launched in earnest. Next
3 spring, Germany will advance to and cross the Ural
4 Mountains and chase Stalin deep into Siberia.'

5 "I: 'Approximately when do you expect that?'

6 "Ribbentrop: 'The campaign will be launched
7 in about May of next year, according to present
8 schedules.'

9 "I: 'According ~~to what you say~~, Germany
10 is apparently preparing to gamble quite a bit in her
11 Russian campaign. We hope that air connections be-
12 tween Germany and Manchukuo can be established at an
13 early time.'

14 "Ribbentrop: 'That is an item that Ger-
15 many has been considering for some time. By summer
16 of next year I do not believe that air connection
17 from the Ural area to Manchukuo will be an imposs-
18 ibility.'

19 "3. I then asked him about the campaign
20 against England proper to which he replied that be-
21 fore launching landing operations against England,
22 Germany will probably completely wipe out Britain's
23 influence in the Near East, Africa, Gibraltar and
24 the Mediterranean Sea. I got the impression that more
25 emphasis is being placed on this area than heretofore.

1 So, I asked whether it was Germany's intention to
2 conclude the war without attempting to go through
3 with a campaign against England.

4 "Ribbentrop: 'Germany has, of course,
5 made all necessary preparations for this campaign.
6 However, Germany is in receipt of intelligences
7 which would seem to indicate that all is not well
8 within England herself. For example, we hear that
9 there is a split within the ranks of the Conserva-
10 tives; that Churchill's influence is on the wane;
11 that Bevin, Chief of the Labor Party, is advocating
12 revolutionary measures. All of these are tending
13 to make the preservation of order there increasingly
14 difficult.

15 "Of course, I am not one to implicitly
16 believe all of this. However, I am convinced that
17 things are getting bad in England. Under these cir-
18 cumstances, it may be that Germany's various other
19 campaigns may cause England to fall even without
20 our going through with our landing operations a-
21 gainst England herself.

22 " (Part 3)

23 "In any event, Germany has absolutely no
24 intention of entering into any peace with England.
25 We are determined to remove all British influence

1 from Europe. Therefore, at the end of this war,
2 England will have no influence whatsoever, in inter-
3 national affairs. The Island Empire of Britain may
4 remain, but all of her other possessions throughout
5 the world will probably be divided three ways by
6 Germany, the United States, and Japan. In Africa,
7 Germany will be satisfied with, roughly, those parts
8 which were formerly German colonies. Italy will be
9 given the greater share of the African colonies.
10 Germany desires above all else, to control European
11 Russia.'

12 "4. In conclusion, I said: 'I am fully
13 aware of the fact that Germany's war campaign is
14 progressing according to schedule smoothly. However,
15 suppose that Germany is faced with the situation of
16 having not only Great Britain as an actual enemy
17 but also have all of those areas in which Britain
18 has influence and those countries which have been
19 aiding Britain as actual enemies as well. Under
20 such circumstances, the war area will undergo con-
21 siderable expansion, of course. What is your opin-
22 ion of the outcome of the war under such an eventu-
23 ality?'

24 "Ribbentrop: 'We would like to end this
25 war during next year. However, under certain cir-

1 cumstances, it is possible that it will have to be
2 continued on into the following year.

3 "Should Japan become engaged in a war
4 against the United States, Germany, of course, would
5 join the war immediately. There is absolutely no
6 possibility of Germany's entering into a separate
7 peace with the United States under such circum-
8 stances. The Fuehrer is determined on that point.'

9 "In closing this conference, Foreign Min-
10 ister Ribbentrop requested that the contents of our
11 talks be kept a strict secret. Please, therefore,
12 exercise particular caution in handling this mes-
13 sage.

14 "I have shown copies of this message to
15 the military and naval attache's Lt.-Gen.(Vice
16 Adm.?) Nomura, and Maj-Gen (Rear Adm.?) Abe.
17 Please show a copy to the Army and Navy authorities
18 in Tokyo, too.

19 "(In the last section of the first part of
20 this message, we wrote *** 'the U.S. would undoubt-
21 edly try to avoid meeting German troops' *** That
22 should have read: 'the U.S. would undoubtedly
23 try to avoid war'.)"
24
25

1 I offer in evidence prosecution document 2157-D,
2 which is an excerpt from the interrogation of the
3 accused OSHIMA. It is offered for the same general
4 purpose as the document I have just read.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 2157-D will receive exhibit No. 604.

8 (Whereupon, the document above
9 referred to was marked prosecution's exhibit
10 No. 604, and was received in evidence.)

11 MR. HYDE: I will read exhibit 604.

12 "Interrogation of OSHIMA, Hiroshi, dated
13 26 February 1946.

14 "Q General, I have some questions on these
15 matters to ask, but I think we will defer those for a
16 time and let you proceed with your narrative.

17 "A The no-separate peace pact was first brought
18 up around the first or second of December 1941, by a
19 telegram from the Japanese Government to me. The gist
20 of this telegram was as follows: that the Japanese
21 Government in case of a United States-Japanese con-
22 flict desired Germany's participation in this war, and
23 further that the Japanese Government desired that a
24 no-separate peace pact be signed. In this regard I
25 had heard sometime in November and had conveyed this

1 news to Japan, from a man named Dietrich, the Reichs-
2 presschef (head of the German press under Goebbels, the
3 Propaganda Minister), that Hitler would be in favor of
4 entering the conflict in case a United States-Japanese
5 conflict started. Based on this information the Japan-
6 ese Government in this telegram to me stated that they
7 were desirous of having me approach Hitler in regard to
8 Germany's entry in case of war with the United States.

9 "Interrogation of OSHIMA, Hiroshi, dated
10 27 February 1946:

11 "Q General, you may proceed with your narrative
12 at the point where you left off yesterday.

13 "A To clear up this before I go any further:
14 almost since the beginning of United States-Japanese
15 talks I had received absolutely no information con-
16 cerning their progress from the Japanese Government,
17 nor had I received any information about relations
18 with the Soviet Union. The main reason for this, I
19 believe, was that formerly we had used couriers to
20 carry information of this sort, but due to the diffi-
21 culties because of the German-Soviet war this became
22 impossible, and for security reasons no communications
23 of this sort were sent. Around the 29th or 30th of
24 November 1941, I received word from Japan to the effect
25 that Secretary of State Hull's reply of November 26, to

1 Japanese proposals was extremely severe in tone. Not
2 knowing much about what the negotiations had covered,
3 I was not able to make an analysis of the situation,
4 this being the first communication regarding United
5 States-Japanese negotiations that I had received.
6 Following this, I believe it was around the end of
7 November or the very beginning of December, I received
8 another communication to the effect that the Japanese
9 Government had issued an order to its Consulates in
10 the United States to burn all but a very small portion
11 of their codes.

12 "Q Did these communications all come from the
13 Foreign Office?

14 "A Yes. Now, these were the two communications
15 that I had received before the orders from the Govern-
16 ment regarding the no-separate peace pact, of which I
17 have told you.

18 "Q This message that you referred to yesterday
19 that you got on the first or the second of December 1941
20 came from the Foreign Office also, did it?

21 "A I am not absolutely certain whether this com-
22 munication regarding the no-separate peace pact came
23 before or after the one that told me of the orders to
24 burn code books. In any case I may be a couple of days
25 off in my dates and I have the feeling that this one

1 regarding the no-separate peace was around the third of
2 December. I just wish to clear up this matter of dates,

3 "Q These telegrams or these despatches that you
4 received from the Foreign Office, I suppose, were all
5 signed MATSUOKA?

6 "A MATSUOKA was no longer Foreign Minister at
7 this time. In any case, signature or no signature, all
8 these despatches came from the Foreign Minister. The
9 Foreign Minister at this time was TOGO."

10 I offer in evidence prosecution document 1532-A.
11 This is a telegram from Ambassador OSHIMA in Berlin to
12 Foreign Minister TOGO. It was dispatched 2 December
13 1941. It is offered for the same general purpose as
14 the two immediately preceding documents.

15 THE PRESIDENT: Admitted on the usual terms.

16 CLERK OF THE COURT: Prosecution's document
17 No. 1532-A will receive exhibit No. 605.

18 (Whereupon, the document above
19 referred to was marked prosecution's exhibit
20 No. 605, and was received in evidence.)

21 MR. HYDE: I will read exhibit No. 605.

22 "Telegram No. 1405 (Ambassador's Code).

23 "To: Foreign Minister TOGO (Received 3 Decem-
24 ber 1941). From: Ambassador OSHIMA (Berlin) Des-
25 patched 2 December 1941. Top Secret.

1 "Referring to your telegram No. 1401:

2 "In accordance to his request, I visited the
3 Foreign Minister Ribbentrop again at 7:00 P.M. of the
4 1st (Gaus in attendance). Foreign Minister Ribbentrop
5 stated that, much to his regret, he has been unable to
6 contact Chancellor Hitler today, due to the location,
7 but believes that he might be able to contact him the
8 following day or probably the day after tomorrow, and
9 since the German side fully understands the haste on the
10 part of Japan, utmost efforts shall be exerted to
11 contact Hitler.

12 "On that occasion Gaus asked me, in regard
13 to the question of immediate participation in wars
14 against America, whether it would be proper for him to
15 interpret the aforementioned obligation as being mutual;
16 to which your Ambassador gave affirmative answer.
17 Furthermore, in regard to the 'draft of the declara-
18 tion providing for non-conclusion of separate peace',
19 I stated that in my opinion it would be better for the
20 three countries of Japan-Germany-Italy to issue a joint
21 declaration since a Japanese-German and a Japanese-
22 Italian declaration issued separately would be too
23 juridical and feared to produce less political effects.
24 However, since Foreign Minister Ribbentrop earnestly
25 requested me not to despatch any telegram to Japan to

1 that effect as the matter has not yet received the
2 approval of the Chancellor, I request that you will take
3 this matter into consideration.

4 "As mentioned previously, I have not yet
5 succeeded in contacting Chancellor Hitler. However,
6 as soon as it becomes possible, your Ambassador shall
7 meet him and directly suggest to him the import of
8 your instructions."

9 I now offer in evidence prosecution document
10 No. 2593-B. This is a copy of one of the intercepted
11 messages included in exhibit 603 for identification.
12 This message is from Rome to Tokyo and is dated
13 3 December 1941.

14 THE PRESIDENT: Admitted on the usual terms.

15 CLERK OF THE COURT: Prosecution's document
16 No. 2593-B will receive exhibit No. 606.

17 (Whereupon, the document above
18 referred to was marked prosecution's exhibit
19 No. 606, and was received in evidence.)

20 THE PRESIDENT: You may read it after lunch.

21 We will adjourn now until half past one.

22 (Whereupon, at 1200, a recess was
23 taken.)
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AFTERNOON SESSION

The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now resumed.

THE PRESIDENT: Mr. Hyde.

MR. HYDE: I will read exhibit No. 606:

"From: Rome

"To: Tokyo

"3 December 1941

"#985

"Re your message #985* to Berlin.

"On this day, at 11 o'clock in the morning,
I accompanied by Ando, called on Premier Mussolini,
(Foreign Minister Ciano was also present). I described
the developments in the Japanese-U.S. negotiations in
accordance with the contents of your message #986** to
Berlin.

"Mussolini: 'I have been carefully watching
the progress of the Japanese-U.S. talks from the very
beginning and therefore am not at all surprised to
receive your report. As a matter of fact, in view of
the utter bull-headedness of the United States and
the meddlesome nature of President Roosevelt, I should
say that the outcome was nothing but what should have

1 been expected. One of the aims of the United States
2 is to make the Far East her own, from an economic
3 standpoint. I have felt from the beginning that
4 if it was the intention of the United States to
5 separate Japan from the Axis first and then inter-
6 vene in Europe, the United States was doomed to
7 fail because of Japan's loyal and sincere nature.

8 "As Your Excellency and Your Excellency's
9 predecessor know, I wholeheartedly endorse Japan's
10 policy of creating a New Order in East Asia. This
11 has been true in the past, is true now and will be
12 so in the future. I am one who is firmly convinced
13 that Japan has every right to be the leader of the
14 Great East Asia area.'

15 "I continued by relating to him the contents
16 of your message referred to in the heading, (with
17 regard to paragraph 3 of that message, I said that
18 I had been advised that some arrangements were being
19 made between our Ambassador in Berlin and Ribbentrop.)

20 "With regard to paragraph 2, Mussolini
21 said that should war break out, Italy would give
22 every military aid she had at her disposal, i.e., that
23 she would make every effort to keep the British navy
24 checked in the Mediterranean.

25 "Mussolini: 'Recently, the formation of

1 an Italian-German air force bloc was discussed so as
2 to afford closer cooperation between the two to
3 apply further pressure on the British in the Mediter-
4 ranean. The negotiations on this proposal have
5 progressed to a point where it may be signed any day
6 now.'

7 "Regarding paragraph 2 again, should Japan
8 declare war on the United States and Great Britain,
9 I asked, would Italy do likewise immediately?
10 Mussolini replied: 'Of course. She is obligated to
11 do so under the terms of the Tripartite Pact. Since
12 Germany would also be obligated to follow suit, we
13 would like to confer with Germany on this point.'

14 "With reference to paragraph 3, I submitted
15 the French text of your message #987***, as one pro-
16 posal, and asked him whether he preferred it to be
17 separately or jointly. He replied that as long as it
18 was done simultaneously with Germany it did not make
19 much difference to him, but if it were done jointly
20 he thought it would give the impression of more
21 strength. He said he would confer with Ambassador
22 MAKKENZEN.
23

24 "Mussolini failed to bring up the subject
25 of Soviet Russia, so the matter was not brought up at
all."

1 I offer in evidence prosecution document
2 No. 1418-E which consists of entries from the diary
3 of Count Ciano from December 3 through December 11,
4 1941.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution document
7 No. 1418-E will receive exhibit No. 607.

8 (Whereupon, the document above
9 referred to was marked prosecution's exhibit
10 No. 607 and was received in evidence.)

11 MR. HYDE: I will read the whole of the
12 entry for December 3, 1941:
13 "December 3, 1941.

14 "Sensational move by Japan. The Japanese
15 Ambassador asks for an audience with the Duce and
16 reads him a long statement on the progress of the
17 negotiations with America, concluding with the asser-
18 tion that they have reached a dead end. Then, invoking
19 the opposite clause in the Tripartite Pact, he asks
20 that Italy declare war on America immediately after
21 the beginning of hostilities between Japan and America
22 and that Italy and Japan sign an agreement not to
23 conclude a separate peace. The interpreter translating
24 this request was trembling like a leaf. The Duce gave
25 fullest assurances, reserving the right to confer with

1 Berlin before giving a reply. The Duce was pleased
2 with the communication. He said: 'We are now on
3 the brink of the inter-continental war which I pre-
4 dicted as early as September 1939.' What does this
5 new event mean? In any case, it means that Roosevelt
6 has succeeded in his maneuver. Since he could not
7 enter into the war immediately and directly, he has
8 entered it indirectly by letting himself be attacked
9 by Japan. Furthermore, this event also means that
10 every prospect of peace is becoming further and further
11 removed, and that it is now easy - much too easy - to
12 predict a long war. Who will be able to hold out
13 longest? It is on this basis that the problem must
14 be considered. Berlin's answer will be somewhat
15 delayed, because Hitler has gone to the southern front
16 to see General Kleist, whose armies continue to give
17 way under the pressure of an unexpected Soviet
18 offensive."

19 I will now read the first paragraph of the
20 entry under December 4, 1941:

21 "December 4, 1941.

22 "Berlin's reaction to the Japanese move is
23 extremely cautious. Perhaps they will accept because
24 they cannot get out of it, but the idea of facing
25 America's intervention pleases the Germans less and

1 less. Mussolini, on the other hand, is pleased about
2 it."

3 I will now read the first paragraph of the
4 entry under December 5:

5 "December 5, 1941

6 "A night interrupted by Ribbentrop's rest-
7 lessness. After delaying two days, now he cannot wait
8 a minute to answer the Japanese and at three in the
9 morning he sent Mackensen to my house to submit a plan
10 for triple action on Japanese intervention and the
11 pledge not to make a separate peace. He wanted me to
12 awaken the Duce, but I did not do so, and the latter
13 was very glad I hadn't."

14 I tender in evidence prosecution document
15 No. 1374. This is a telegram from the German Ambassador
16 in Tokyo to the Reich Foreign Minister bearing date of
17 5 December 1941.

18 THE PRESIDENT: Admitted on the usual terms.

19 CLERK OF THE COURT: Prosecution's document
20 No. 1374 will receive exhibit No. 608.

21 (Whereupon, the document above
22 referred to was marked prosecution's exhibit
23 No. 608 and was received in evidence.)

24 MR. HYDE: I will read exhibit No. 608:
25

"TELEGRAM

"To be kept in locked file

"Tokio, 5 December 1941,

"Arrived, 6 December 1941,

"No. 2657 of 5 December 1941 "MOST URGENT!

"For the Reich Foreign Minister

"In strict confidence I was informed from a Foreign Ministry source that the Japanese reply to the American note of November 26 has not been sent yet. The reply is expected to be composed, but firm. It will declare that American principles are not applicable to the Far East. It is expected that then the United States will break off the negotiations. Upon an oral inquiry by Secretary of State Hull to the two Japanese Ambassadors as to the aim of the Japanese preparations in Indo-China, they have been instructed to reply that the Japanese Government is making preparations which have become necessary in view of Chinese massing of troops in Yunnan. The preparations are, furthermore, being kept within the limits of the contracted stipulations with France, as has been declared in the meantime by Vichy. The confidante notices in this connection that a limitation of the number of troops to 25,000 exists only for Northern Indo-China, while no maximum limitation has

1 been stipulated in the agreement for the South.

2 "The Foreign Ministry is at the moment en-
3 deavoring to stress vis-a-vis us the determination
4 of Japan to take measures against the encirclement.
5 For instance it was intimated to Italian Embassy which
6 apparently has not been notified about the Imperial
7 Conference at the end of last week about which OSHIMA
8 will have informed Berlin, that Italy must start con-
9 siderations to which other power she wishes to transfer
10 the handling of her interests in the future.

11 "A leading official of the Foreign Ministry
12 stated in a conversation that Japan has always been
13 of the opinion as already announced by MATSUOKA,
14 namely, that Article III of the Tripartite Pact is
15 to be considered as applicable in any conflict between
16 one of the three powers and the United States except
17 in the case, for example, that one of these powers
18 would for instance attack without reason the American
19 Continent. I took proper cognizance of this.

20 "SHIRATORI explained to me that the leading
21 circles of Japan have come to the conviction that
22 Roosevelt wants now to enter the war by means of a
23 conflict in the Far East. From various sides the
24 opinion has been advocated that the United States are
25 now sure of the coalition of the A B C D States and

1 Russia, which has been striven for for more than ten
2 years. Therefore, Roosevelt believes that the moment
3 for a settlement has come, since one cannot be cer-
4 tain of the adherence of these states in the future.

5 "Deliberations are under way in the Foreign
6 Ministry in which manner Japan should open a conflict
7 which cannot be avoided. They tend to the opinion
8 that for reasons of interior politics it is unavoidable
9 to declare the existence of a state of war or to declare
10 war on America simultaneously or after the beginning
11 of hostilities. I have in accordance with the hitherto
12 existing instructions about official statements advo-
13 cated the opinion that if a direct attack is avoided,
14 (the clear text of the cable is missing) . . . could
15 be put upon the United States for this difficult de-
16 cision regarding entrance into the war. In view of
17 the important role which this point might play in the
18 gradual aggravation of the situation and in the con-
19 flict between the groups which I have frequently
20 mentioned I would appreciate an early instruction.

21
22 "(signed) OTT."
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1 I will now read from prosecution document
2 1418-E, which is exhibit 607, "Count Ciano's Diary."
3 I will read the first paragraph of the entry under
4 December 8, 1941 and all the entries under 11 December
5 1941. (Reading):

6 "December 8, 1941

7 "A night telephone call from Ribbentrop; he
8 is overjoyed about the Japanese attack on America.
9 He is so happy about it that I am happy with him,
10 though I am not too sure about the final advantages
11 of what has happened. One thing is now certain:
12 that America will enter the conflict, and that the
13 conflict will be so long that she will be able to
14 realize all her potential force. This morning I
15 told this to the King who had been pleased about the
16 event. He ended by admitting that in the 'long run'
17 I may be right. Mussolini was happy too. For a long
18 time he has wanted the real relations between America
19 and the Axis to be definitely clarified."

20 Now I turn to the entries of December 11:

21 "December 11, 1941

22 "Mussolini takes very little interest in
23 the Darlan conversation. He is occupied with thoughts
24 of war against America. At 14:30 I receive the
25 Charge' d'Affaires, a nice, rather timid man with

1 whom I have never had much contact. He thinks that
2 I have summoned him in order to discuss the arrest
3 of some journalists but I immediately set him right.
4 He pales as he hears the declaration of war. He says,
5 'It is very tragic.' Then he gives me a personal
6 message from Phillips who, realizing that the zero
7 hour was near, had telegraphed to express his gratitude
8 and extend his good wishes to me. Phillips is a
9 fine man, and he loves Italy; I am sure that this
10 is a sad day for him.

11 "Mussolini spoke from the balcony. A short
12 and cutting speech which fell upon a square over-
13 flowing with people. Demonstration showed much pro-
14 Japanese sympathy; the news of the naval victories
15 has excited the imagination of the Italians. On
16 the whole, however, the demonstration was not very
17 enthusiastic; it must not be forgotten that it was
18 three o'clock in the afternoon, the people were
19 hungry, and the day was rather cold. These are
20 factors which are not conducive to arousing enthusiasm.

22 "In the evening Ribbentrop asks us to join
23 a German move to urge the countries of the Tripartite
24 Alliance to declare war on the United States. What
25 about Spain?"

I respectfully call the attention of the

1 Tribunal to prosecution document No. 1204, a basic
2 document which is in evidence as exhibit No. 51.

3 It is an announcement of the Board of Information
4 concerning the No Separate Peace Pact. (Reading):

5 "ANNOUNCEMENT OF THE BOARD OF INFORMATION
6 CONCERNING THE CONCLUSION OF AN AGREEMENT BETWEEN
7 JAPAN, GERMANY AND ITALY WITH RESPECT TO THEIR JOINT
8 PROSECUTION OF WAR AGAINST THE UNITED STATES AND THE
9 BRITISH EMPIRE, ABSTENTION FROM CONCLUDING PEACE AND
10 CO-OPERATION FOR THE ESTABLISHMENT OF A NEW ORDER.

11 "December 11, 1941

12 "Germany and Italy having decided to wage
13 war in common with Japan against the United States of
14 America, an agreement was signed today (December 11)
15 at Berlin between the Japanese Plenipotentiary, the
16 Ambassador to Germany, Lieutenant-General Hiroshi
17 Oshima, the German Plenipotentiary, the Foreign
18 Minister, Mr. Joachim Ribbentrop and the Italian
19 Plenipotentiary, the Ambassador to Germany, Mr. Dino
20 Alfieri. The contents of the agreement are as follows:

21 "Agreement between Japan, Germany and Italy.

22 "In the unflexible determination not to lay
23 down arms until the common war against the United
24 States and the British Empire is successfully con-
25 cluded, the Imperial Japanese Government, the German

1 Government and the Italian Government have agreed
2 upon the following stipulations.

3 "Article I

4 "Japan, Germany and Italy shall prosecute
5 the war forced upon them by the United States of
6 America and the British Empire with all forceful
7 means at their command until it ends in their victory.

8 "Article II

9 "Japan, Germany and Italy pledge that, without
10 complete understanding between themselves, they will
11 not conclude armistice or peace with either the United
12 States of America or the British Empire.

13 "Article III

14 "Japan, Germany and Italy shall, even
15 after the termination of the war in their victory,
16 cooperate most closely for the purpose of realizing
17 a righteous new order in the meaning of the Tripartite
18 Pact which they concluded on September 27, 1940.

19 "Article IV

20 "The present Agreement shall come into
21 effect on the date of its signature and shall remain
22 in force as long as the Tripartite Pact of September
23 27, 1940 is in force. The High Contracting Parties
24 shall, at an appropriate time before the expiration
25 of the said period of validity, reach an understanding

1 concerning the manner of subsequent cooperation pro-
2 vided in Article III of the present Agreement."

3 I offer prosecution document No. 4002 in
4 evidence. It is a report of a conference between
5 OSHIMA and Hitler on the occasion of Hitler's recep-
6 tion given in OSHIMA's honor on 14 December 1941.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Prosecution's document
9 No. 4002 will receive exhibit No. 609.

10 (Whereupon, the document above
11 referred to was marked prosecution's exhibit
12 No. 609 and was received in evidence.)

13 MR. HYDE: I will read exhibit No. 609:
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"TOP SECRET

1 "Reception of the Japanese Ambassador,
2 General OSHIMA, by the Fuehrer on 14 December 1941,
3 from 1300 to 1400 o'clock in the presence of the Reich
4 Foreign Minister.

5 "First the Fuehrer presents Ambassador
6 OSHIMA with the Grand Cross of the Order of Merit of
7 the German Eagle in gold. With cordial words he
8 acknowledges his services in the achievement of German-
9 Japanese cooperation, which has now obtained its cul-
10 mination in a close brotherhood of arms..

11 "General OSHIMA expresses his thanks for the
12 great honor and emphasizes how glad he is that this
13 brotherhood of arms has now come about between Germany
14 and Japan.

15 "The Fuehrer continues: 'You gave the
16 right declaration of war!' This method is the only
17 proper one. Japan pursued it formerly and it cor-
18 responds with his own system, that is, to negotiate
19 as long as possible. But if one sees that other is
20 interested only in putting one off, in shaming and
21 humiliating one, and is not willing to come to an
22 agreement, then one should strike -- as hard as
23 possible, indeed -- and not waste time declaring war.
24 It was heartwarming to him to hear of the first opera-
25 tions of the Japanese. He himself negotiated with

1 infinite patience at times, for example, with Poland
2 and also with Russia. When he then realized, that the
3 other did not want to come to an agreement, he struck
4 suddenly and without formalities. He would continue
5 to go this way in the future.

6 "The Japanese Government did indeed not act
7 thoughtlessly; it had, he must say, shown angelical
8 patience toward that ruffian, Roosevelt. There is a
9 German proverb, saying: 'The most virtuous cannot
10 live in peace if his evil neighbor dislikes it.'
11 These are words containing a bitter truth. If the
12 neighbor is unwilling, one just has to destroy him.

13 "The entry of Japan into the war was a great
14 relief to Germany. He must freely admit having been
15 worried about the prospects for success of the sub-
16 marine war. How could a commander tell when he could
17 torpedo and when not? American ships went in convoys
18 and under dimmed lights, and besides the Americans
19 had delivered to the English 50 destroyers of a type
20 of which they themselves had 80 more. One could not
21 expect a U-boat commander to work through an entire
22 book before each torpedoing in order to establish
23 whether the ship were English or American. The U-
24 boat commanders had been under an intolerable psycho-
25 logical strain, for in the last analysis each one of

1 them felt the enormous responsibility at the thought
2 that he might bring his country into a new war by a
3 misjudged torpedoing. These days were now definitely
4 past. He had given the German U-boat commanders
5 orders to torpedo everything in sight. The German
6 surface naval forces could also feel more free to
7 operate. Up till now American ships had stood nearby
8 and radioed until the British naval forces arrived,
9 without any possibility for the Germans to defend
10 themselves against this. He would now send the U-
11 boats up to American ports and would not have to take
12 the three-mile zone into consideration any more.

13 "He, the Fuehrer, was convinced that Roose-
14 velt must be beaten. It was a great feat of the
15 Japanese that they had destroyed at the very start
16 the nimbus of American superiority. Then he tells
17 of the American fighting capacity, which he does not
18 consider high, and gives examples from the year 1918.
19 At that time the German troops were exhausted and
20 tired and the American ones fresh and well fed.
21 Nevertheless, wherever Germans met Americans, the lat-
22 ter were so thoroughly beaten that they required weeks
23 before they could be sent into action again. How
24 could troops whose God is the dollar hold firm to
25 the last?

1 "Clear conditions had now been created. A
2 weight had been lifted from the minds of the German
3 U-boat commanders. All the Jewish concepts like
4 'western hemisphere', '300-mile zone', etc., had
5 become untenable. Germany would make the ocean inse-
6 cure.

7 "In 1939 he had faced an important decision.
8 He would either have had to send the German U-boats
9 into combat and would then have had no more crews for
10 the subsequent mass production, or he would have had to
11 use the greatest part of the available U-boats for
12 training purposes, in order to have sufficient submar-
13 ine personnel for the future. Thank God, he had de-
14 cided to adopt the second solution, and this would now
15 have its effect, since 19,20 even 24 U-boats would be
16 put into service monthly. The number of our U-boats
17 would increase enormously each month, especially since,
18 on the average, we had hitherto lost less than two
19 U-boats a month.

20 "General OSHIMA tells the Fuehrer that Japan
21 had fought under similarly difficult conditions, when
22 Nanking was bombed and the pilots had orders to spare
23 the foreign legations under all circumstances. This
24 was an impossible restraint for the pilots. It was
25 infinitely fortunate, the Fuehrer continues, that now

1 he could relieve the men in the submarines of the
2 responsibility and now once more bore it himself.

3 "On the remaining front there now came the
4 winter standstill. Unfortunately a temperature drop
5 of 38° had occurred right in the middle of the devel-
6 opment of a big operation. Any operation ceases at
7 such a temperature. Besides the burden for the indi-
8 vidual man of fighting in this cold weather, there is
9 the trouble with the motorized vehicles. Above all,
10 however, the automatic weapons would not operate any
11 more. Of course, some operations would be completed.
12 First, Sevastopol must be taken; the preparations for
13 this were almost concluded. Then, the siege of Lenin-
14 grad would be continued, and third, he hoped soon to
15 be able to resume the operations in the direction of
16 the Caucasus. He must align the remaining sectors
17 of the Eastern front on as short a line as possible,
18 corresponding approximately to a straight line from
19 Leningrad to Taganrog. This would give him the pos-
20 sibility of withdrawing the motorized and armored
21 units and the best infantry divisions, in order to
22 freshen them up during the winter. Large-scale opera-
23 tions would then be resumed in the spring.

24 "In the meantime he would now take strong
25 action in the Mediterranean. Next week, 51 German

1 and United States bases in the Near East and Middle
2 East, in the Mediterranean Sea and the Atlantic,
3 attack or occupy their territories in that area.

4 "(b) They will seek the annihilation of
5 the English and American land, sea, and air forces
6 in the Atlantic and the Mediterranean Sea, and the
7 destruction of enemy commerce.

8 "(c) If the English and United States
9 fleets concentrate largely in the Pacific, Germany
10 and Italy will send part of their naval forces to the
11 Pacific and there collaborate directly with the
12 Japanese Navy.

13 "III. Main Points of Military Cooperation.

14 "1. Maintenance of contact regarding
15 important points of operational planning.

16 "2. Collaboration in economic warfare,
17 including:

18 "(a) Maintenance of contact regarding
19 the planning of economic warfare.

20 "(b) Maintenance of contact regarding
21 the course of the economic warfare, important
22 information and other necessary particulars.

23 "(c) In case one partner wishes to carry
24 out economic warfare beyond the operational zone
25 assigned to him, he will inform the other partner

1 beforehand of his own plan, to secure the cooperation
2 and mutual support regarding use of the operations
3 bases, reinforcement, supply, recreation of the
4 crews, repair work, etc.

5 "3. Collaboration concerning the assembling
6 and exchanging of information important to the operations.
7

8 "4. Collaboration concerning psychological
9 warfare.

10 "5. Collaboration for securing mutual
11 military message transmission.

12 "6. Collaboration for the purpose of
13 establishing air communication between Germany,
14 Italy, and Japan, insofar as technical requirements
15 exist, as well as the opening of the sea
16 lanes and sea transport across the Indian Ocean.

17 "In witness whereof the Chief of the
18 High Command of the German Armed Forces, the
19 Plenipotentiary of the High Command of the Italian
20 Armed Forces and the Plenipotentiaries of the Chief
21 of the Imperial Japanese General Staff and of the
22 Chief of the Imperial Japanese Naval General Staff
23 have signed this agreement.

24 "Drawn up in German, Italian, and Japanese
25 original in Berlin on 18 January 1942 - in the 20th

1 year of the Fascist Era - corresponding to the
2 ____ day of the first month of the 17th year of
3 the Showa Era.

4 "Signed: Keitel
5 Marras
6 Nomoura
7 Banzai"
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1 MR. TAVENNER: If it please the Tribunal,
2 this concludes the evidence outlined in the opening
3 statement in this phase of the case. Mr. Higgins
4 has a matter which he desires to present to the
5 Tribunal. After that, due to the lateness of the
6 hour, it would be convenient to the prosecution if
7 the Tribunal would consider adjourning rather than
8 going into other phases of the case.

9 THE PRESIDENT: Mr. Higgins.

10 MR. HIGGINS: Mr. President, Members of the
11 Tribunal, on 5 April 1946 the Chief Prosecutor placed
12 in the record as exhibit No. 10 the orders designating
13 and appointing the Members of the International Mili-
14 tary Tribunal for the Far East. Since that date ad-
15 ditional Members of the Tribunal have been appointed
16 and have qualified. The prosecution now desires to
17 place in the record the respective orders of their
18 appointment. We respectfully --

19 THE MONITOR: We have to translate it
20 sentence by sentence since we don't have the trans-
21 lation, Mr. Higgins.

22 MR. HIGGINS: We respectfully ask that the
23 orders with the designating letters be placed in the
24 record as one exhibit with the proper number and to
25 be recorded in the order in which the appointments were

1 made. General Headquarters --

2 THE PRESIDENT: Mr. Blewett.

3 MR. BLEWETT: If the Court please, this
4 paper, your Honor and members of the Court, was
5 served upon the defense just a few moments ago.
6 Now we have in the first place, it seems to be the
7 introduction of a document which comes within the
8 rules of procedure as to the twenty-four hour notice.

9 THE PRESIDENT: The constitution of the
10 Court is a matter peculiarly within our own knowledge,
11 and actually there is no need to tender these
12 appointments, but they have been tendered for the
13 purposes of the record.

14 MR. BLEWETT: If the Court please, there
15 does not seem to be any immediate hurry or rush for
16 the filing of this paper. All we are asking for is
17 the courtesy of the prosecution to give us a little
18 time to go over this matter and consider it as to
19 whether or not an objection should be entered.

20 THE PRESIDENT: Ordinarily, when a special
21 jurisdiction like this is created, the Tribunal
22 itself produces the record of its own appointment,
23 hands them to the Registrar and directs they be
24 recorded; but in this case it appears that the
25 Chief Prosecutor followed the practice of military

1 courts, and in all events, it hardly matters from
2 what source the documents emanates as long as they
3 are recorded. As I am reminded, too, this Court
4 has been constituted to try not merely this case but
5 other cases. If you will read the Charter, you will
6 find that is clearly set out. In all events, Mr.
7 Blewett, you have nothing to object to unless you
8 are afraid that if you do not object, you will be
9 agreeing that this Court is constituted validly.

10 We can give you no undertaking about that
11 because we cannot hinder or help an attack upon us.
12 So that general provision about all objections being
13 deemed to have been taken would not apply to one
14 going to our own jurisdiction or constitution.

15 MR. BLEWETT: I understand, sir, that an
16 objection has already been noted in the record on
17 a similar paper, and if the privilege is extended
18 to include that objection to this document, sir, the
19 defense would be satisfied.

20 THE PRESIDENT: You do not need an exception
21 in order to be in a position to attack the consti-
22 tution of the Court, if you have that in mind -- you
23 may have.
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1 MR. FURNESS: May it be understood, sir,
2 that all objections already made are still applicable,
3 and that the defense's objections are not waived or
4 corrected through the filing of this document if we
5 have valid exceptions.

6 THE PRESIDENT: Mr. Cunningham.

7 MR. CUNNINGHAM: I, like Mr. Blewett, should
8 like to have a little time to study the legal effect
9 of filing of this document at this time. I have some
10 objections to make to it. Would the Court desire to
11 have the objections to be made now, or can we have a
12 little time to consider?

13 MR. HIGGINS: Mr. President, objection was
14 made to the constitution of the Court.

15 THE PRESIDENT: Avoid technical terms if
16 you can, otherwise we will be here all afternoon.

17 MR. HIGGINS: That matter was heard by and
18 passed upon by the Court. What we are seeking to do
19 now is nothing more than placing in the record the
20 official papers which made these men Members of this
21 Tribunal.

22 THE PRESIDENT: Well, the matter is not
23 urgent. The defense want a little more time. Why
24 not let them have it?

25 MR. HIGGINS: The prosecution knows of no

1 reason why they shouldn't have it if they want it.

2 THE PRESIDENT: You can bring the matter up
3 at a later date. What is next? Is the prosecutor in
4 the next phase here?

5 MR. TAVENNER: No, sir, but there are
6 several other matters that we could proceed with if
7 the Tribunal desires.

8 THE PRESIDENT: I understand the French case
9 will be put next.

10 MR. TAVENNER: Yes, sir.

11 THE PRESIDENT: I further understand that
12 the opening will be in both French and English.

13 MR. TAVENNER: I was just about to state
14 that.

15 THE PRESIDENT: It would save a lot of
16 trouble if the opening were read in English, but I
17 do not say it cannot be read in French. That is a
18 matter we will decide if and when necessary. The
19 French prosecutor speaks English and no doubt would
20 have no difficulty in reading his English version of
21 his opening. He will have until Monday to consider
22 the position.

23 We will adjourn now until half past nine on
24 Monday.

25 (Whereupon, at 1440, an adjournment was
taken until Monday, 30 September 1946, at 0930.)

- - - -

1 U-boats would be in the Mediterranean, and in the mean-
2 time a large number of motor torpedo boats had also
3 arrived there. The Luftwaffe was moving an entire air
4 force (Luftflotte) under the command of General
5 Kesselring there. In the end the English would have
6 to pay dearly for their stay in the Mediterranean. In
7 this connection he recalls the Norway undertaking,
8 where the English fleet suffered such losses through
9 the action of U-boats and Luftwaffe that it finally
10 had to withdraw.

11 "His major objectives at present were the
12 destruction of Russia, the southward drive over the
13 Caucasus, and the torpedoing of the Anglo-Saxon navy
14 and merchant marine. Today the tonnage of the Anglo-
15 Saxon nations was already too small to carry an ex-
16 peditionary force to the continent.

17 "Above all, the aerial torpedo weapon must
18 be further developed. In this regard the Japanese
19 Government was of great assistance by supplying
20 Japanese torpedos. The fact that we are still back-
21 ward with this weapon was due to the mistake that the
22 torpedos were constructed and tested by the Navy,
23 while the planes designated to carry them were con-
24 structed and tested by the Luftwaffe. The develop-
25 ment was parallel but was not carried on in unison.

1 General OSHIMA asks whether these Japanese torpedos
2 could not be utilized soon. Germany now had 70 of
3 them and also the corresponding drawings. He is con-
4 vinced that Germany could have great success with it,
5 since the training was not too difficult and the
6 German pilots were very valiant. The English did not
7 know that Germany had Japanese torpedoes, and so a
8 surprise would be possible. The Fuehrer agrees with
9 OSHIMA and says that he would make use of the torpedo
10 weapon soon. For quite some time now an entire wing
11 (Geschwader) had been training with aerial torpedoes
12 exclusively. He would make a concentrated surprise
13 attack, an attack on which everything would be staked."

1 "General Oshima now spreads out a map and
2 gives the Fuehrer a comprehensive lecture on the war
3 situation in the Pacific and the Archipelago area.
4 He tells the Fuehrer of the successes of the Japan-
5 ese air force and fleet and about the advance of the
6 Japanese land forces in the Philippines and the Malay
7 Peninsula. At the conclusion of his report on the
8 situation, Oshima says that after the capture of
9 Singapore Japan must turn toward India. In this
10 connection he considered it important that German
11 and Japanese operations should be synchronized.
12 It would be very advantageous if when Japan attacked
13 India from the East, the German troops would threaten
14 India from the West. The Fuehrer again explains to
15 Oshima his plans for the Spring and says that first
16 he intends to attack in the South, since a thrust to
17 the Caucasus, also with regard to oil, and an ad-
18 vance to Iraq and Iran -- which also implies a
19 threat to India -- would be of primary importance,
20 to begin with. Only then would he resume operations
21 in the center of the Eastern front. The Russians
22 thought we would want to take Moscow first, but
23 this was of lesser importance to him.

24 "Meanwhile, he would turn his entire
25 attention to North Africa. We would furthermore,

1 as he had already mentioned, torpedo every ship we
2 encountered, and he believed that thereby heavy dam-
3 age could be inflicted on the Anglo-Saxon fleet.

4 Oshima expresses his great desire that in all
5 these German and Japanese undertakings the opera-
6 tions should be synchronized. If this were done
7 cleverly and if the method of operations worked as
8 a sort of lever or exchange action, this would in-
9 evitably lead to the ruin of the Anglo-Saxon powers.
10 To this the Fr . . . or agrees and declares further that
11 November and December are always the worst months
12 to carry on warfare. As soon as the weather im-
13 proved he would again ruthlessly attack English
14 ports and dockyards. The Luftwaffe had already
15 made extensive preparations for this. With the Eng-
16 lish ports and docks ruined, England would be help-
17 less.

18 "Then General Oshima spoke about landing
19 warfare, which had been greatly developed and prac-
20 ticed in Japan during the past 30 years. On the
21 island of Hainan, which was occupied by Japan, the
22 attempts and exercises had been carried out with
23 great energy. The necessary landing boats had also
24 been extensively developed. He suggests that as
25 soon as contact has been reestablished between

1 Germany and Japan -- which is possible by air and
2 surely will soon be possible by long-distance U-
3 boats -- delegates of the German Wehrmacht should
4 come to Japan to study the methods developed by the
5 Japanese.

6 "The Fuehrer briefly mentions the necess-
7 ity of stopping American shipments to Vladivostok,
8 Oshima says that it would be an easy task to halt
9 American shipments to Vladivostok, since, in order
10 to get there, American ships have to pass through
11 straits which could be covered by artillery; be-
12 sides, he is of the opinion that America would not
13 make any more shipments to Russia."
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1 MR. HYDE: In conclusion of this phase of
2 the case the Tribunal's attention is directed to
3 prosecution's document 4018, a basic document in
4 evidence as exhibit No. 49. It is the military
5 agreement between Germany, Italy and Japan concluded
6 on 18 January 1942 in which the Axis powers acting
7 in the spirit of the Tripartite Pact divided the
8 world into zones for military operations.

9 I will read exhibit No. 49.

10 (Reading):

11 This is marked: "No. 6 (Japan)

12 "NATIONAL TOP SECRET

13 "Military Agreement between Germany, Italy,
14 and Japan.

15 "The German and Italian Armed Forces, as
16 well as the Japanese Army and Navy, herewith con-
17 clude a military agreement in the spirit of the
18 Tripartite Pact of 27 September 1940 and in connection
19 with the agreement between Germany, Italy, and Japan
20 of 11 December 1941 to secure the operational co-
21 operation among themselves and to destroy as soon
22 as possible the fighting power of the enemy.

23 "I. Division of the zones for operations.

24 "The German and Italian Armed Forces as
25 well as the Japanese Army and Navy will carry out

1 the required operations within the zones assigned
2 to them as follows;

3 "1. Japan.

4 "(a) The waters eastward from about 70 degrees,
5 East longitude, to the West Coast of the American
6 Continent, as well as the continent and islands
7 (Australis, Netherlands, East Indies, New Zealand,
8 etc.) which are situated in these waters.

9 "(b) The Asiatic Continent East of about
10 70 degrees, East longitude.

11 "2. Germany and Italy.

12 "(a) The waters westward from about
13 70 degrees, East longitude, to the East Coast of
14 the American Continent as well as the continent
15 and islands (Africa, Iceland, etc.) which are
16 situated in these waters.

17 "(b) The Near East, the Middle East
18 and Europe westwards from about 70 degrees, East
19 longitude.

20 "3. In the Indian Ocean the operations
21 may be carried out beyond the zone-borders /zone
22 limits/ agreed upon above according to the situation.

23 "II. General Operations plan.

24 "1. Japan.

25 "will, working together with the Germans.

1 and Italian operation against England and the U.S.A.,
2 carry out the operations in the South Sea Area and
3 in the Pacific.

4 "(a) She will destroy important English,
5 United States, and Netherlands bases in Greater
6 East Asia, /and/ attack or occupy their territories
7 in that area.

8 "(b) She will seek the annihilation of
9 the North American and English land, sea, and air
10 forces in the Pacific and the Indian Ocean, in order
11 to secure for herself the control of the seas in the
12 Western Pacific.

13 "(c) If the North American and English
14 fleets concentrate largely in the Atlantic, Japan
15 will reinforce her commerce raiding in the entire
16 area of the Pacific and the Indian Ocean and, in
17 addition, send part of her naval forces to the
18 Atlantic and there collaborate directly with the
19 German and Italian Navies.

20 "2. Germany and Italy.

21 "will, in cooperation with the Japanese
22 operations in the South Sea Area and the Pacific,
23 carry out the operations against England and the
24 United States of America.

25 "(e) They will destroy important English