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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

Jack Greenberg, Chief
Fred T. Abram
James F. Burton
Antoinette Duda
Samuel Goldberg
Robert B. Morse
John J. Smith
Daphne Spratt
Elvira Whalen
Julian Wolf
Lorraine Yelden

4 OCTOBER 1946

I N D E X
of
WITNESSES
(none)

I N D E X
of
EXHIBITS

<u>Pros.</u> <u>No.</u>	<u>Def.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidence</u>
638		Telegram from the German Ambassador in Tokyo dated 4 July 1941		7029
639		File containing number of documents from the German Foreign Office to which is attached a certificate from the Secy of State of the United States	7031	
639-A		Telegram dated 4 July 1941 signed "Thomas" and marked "Secret Affair of the Reich"		7031
639-B		Telegram dated 10 July 1941 from the German Ambassador in Tokyo re the imminence of the Japanese move against Indo-China		7033
640		Document consisting of 2 telegrams found in the office of the Japanese Foreign Ministry each addressed to Ambassador Kato in France		7037

I N D E X

Of

EXHIBITS

(cont'd)

<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
641		Intercepted Message from Canton to Tokyo of one of the items included in Exhibit No. 603 for identification. Dated 14 July 1941		7042
642		Telegram signed "Rintelen" addressed to the German Foreign Minister (also transmitted to Tokyo and Paris) dated 19 July 1941		7045
643		Extract from the Diary of Marquis KIDO dated 26 September 1940		7049
644		Telegram from the German Ambassador in Tokyo dated 20 July 1941		7052
645		Telegram from Bangkok marked "Secret Reich Matter", signed "Scholl" and dated 18 July 1941		7053
646		Telegram from Paris dated 21 July 1941 marked "Secret Matter of State" signed "Schleier"		7055
647		Collection of Treaties between France and Japan concerning French Indo-China, published by the Treaty Bureau of the Japanese Foreign Ministry, April 1943		7057

I N D E X

Of

EXHIBITS

(cont'd)

<u>Pros.</u> <u>No.</u>	<u>Def.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidence</u>
647-A		Letters Exchanged between Ambassador Kato and Foreign Minister Darlan		7058
648		Telegram from the Japanese Ambassador in Tokyo dated 22 July 1941		7067
649		Record of the Proceedings of the First Meeting of the Privy Council re the Protocol between France and Japan concerning Military Cooperation held 28 July 1941		7069
650		Minutes of the Second Privy Council Meeting: Conclusion of Protocol between Japan and France held on 28 July 1941		7074
651		Copy of the Protocol between France and the Japanese Empire Concerning the Joint Defense of French Indo- China which was signed 29 July 1941 together with copies of two letters dated at Vichy on 29 July 1941		7079

1 Friday, 4 October, 1946

2 - - -

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

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

10 - - -

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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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19 (English to Japanese, Japanese to
20 English, French to English and Japanese to
21 French interpretation was made by the
22 Language Section, IMTFE.)
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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: Major Moore.

4 LANGUAGE ARBITER (Major Moore): If the
5 Tribunal please, regarding prosecution's document
6 No. 1632W, exhibit No. 627, page 1, paragraph 2,
7 line 8, the line should read, "I said to his Majesty
8 that, as it has been said, if we let the matter con-
9 tinue," and so forth.

10 Again, in line 13, the line should read,
11 "direct it to be careful before taking any action,"
12 and so forth.

13 We recommend that the translation be corrected
14 accordingly.

15 THE PRESIDENT: The corrections are noted.
16 Mr. Oneto.

17 MR. ONETO: Prosecution's document No. 4062B
18 is now offered in evidence. This is a telegram from
19 the German Ambassador in Tokyo. The name of the person
20 to whom it was sent does not appear.

21 THE PRESIDENT: Admitted on the usual terms.

22 CLERK OF THE COURT: Prosecution's document
23 No. 4062B will receive exhibit No. 638.

24 (Whereupon, the document above referred
25 to was marked prosecution's exhibit No. 638 and

1 received in evidence.)

2 MR. ONETO: The document was found in the files
3 of the German Foreign Office. The telegram is dated
4 4 July 1941 and sets forth certain personal impressions
5 received by the military attache in a conversation with
6 the Japanese General Staff.

7 THE PRESIDENT: Mr. Tavenner.

8 MR. TAVENNER: I will read the document.

9 "Telegram (Secret Cipher process)

10 "To be kept in locked file.

11 "Tokyo: 4 July 1941

12 "Arrival: 5 July 1941. Most urgent!

13 "((Military attache reports following personal
14 impression from conversation with Japanese General
15 Staff :

16 "Japanese Army is zealously preparing and
17 under emphatic secrecy))

18 "1.) The occupation of Saigon in the not too
19 distant future. It is the preliminary condition for
20 an eventual further southward move for which, however,
21 there are as yet no tangible footholds discernable."

22 I will omit reading the rest of the telegram.

23 Signed: "OTT."

24 MR. ONETO: I now present for identification
25 only prosecution's document No. 11 which is a file

1 containing a number of documents from the German
2 Foreign Office, to which is attached a certificate
3 from the Secretary of State of the United States.

4 THE PRESIDENT: The document will be marked
5 for identification.

6 CLERK OF THE COURT: Prosecution's document
7 No. 11 will receive exhibit No. 639 for identification
8 only.

9 (Whereupon, the document above referred
10 to was marked prosecution's exhibit No. 639 for
11 identification only.)

12 MR. ONETO: I now offer in evidence prosecu-
13 tion's document No. 11A(2), which is a copy of one of
14 the items included in prosecution's document No. 11
15 which has been marked exhibit No. 639 for identification.
16 This is a telegram dated Bangkok, July 4, 1941. It is
17 signed "Thomas," and is marked, "Secret Affair of the
18 Reich." It relates to the preparation and carrying
19 out of certain military operations in the Netherlands
20 Indies and Indo-China by the Japanese forces.

21 THE PRESIDENT: Admitted on the usual terms.

22 CLERK OF THE COURT: Prosecution's document
23 No. 11A(2) will receive exhibit No. 639A.

24 (Whereupon, the document above referred
25 to was marked prosecution's exhibit No. 639A and

1 received in evidence.)

2 THE PRESIDENT: Do not read the part of the
3 description already given by Mr. Oneto.

4 MR. TAVENNER: If your Honor please, there
5 were two exhibits, one entered for identification
6 only and the second, 11A(2), is the one mentioned as
7 exhibit 639A. I will read exhibit 639A:

8 "To be kept under lock and key.

9 "Telegram (Secret Cipher Process)

10 "Bangkok, July 4, 1941.

11 "Received July 4, 1941.

12 "Secret Affair of the Reich.

13 "Likewise for the Attache Division of the
14 High Command of the Army and Naval High Command.

15 "The Japanese Secretary of Embassy, Furuuchi
16 des Gaimusho, who is on an orientation journey, con-
17 fidentially informed the Military Attache:"

18 I will omit reading paragraphs 1 and 2 and
19 I will read paragraph No. 3.

20 "3) Failure of Japan's economic negotiations
21 with the Netherlands-Indies would oblige her to take
22 over the oil resources there by force, since her fleet
23 would otherwise be incapable of action. Prior to this
24 there is to be a Japanese military occupation of Indo-
25 China in order to procure a concentration area and

1 jumping-off ports against the Netherland-Indies. The
2 occupation of Thailand is not envisaged. The prepar-
3 ation and the carrying out of the operations is to be
4 made by the staff of General Ushiroku on the South
5 China Front, in Canton. Conduct of the English forces
6 in Singapore is considered to be purely defensive."

7 I will omit reading the remainder of the
8 telegram.

9 Signed: "Schol Thomas."

10 MR. ONETO: I present prosecution's document
11 No. 11A(3) which is a copy of one of the items included
12 in prosecution's document No. 11, which has been
13 marked exhibit No. 639 for identification. This is
14 a telegram dated 10 July 1941 from the German Amba-
15 sador in Tokyo relating to the imminence of the
16 Japanese move against Indo-China.

17 THE PRESIDENT: Admitted on the usual terms.

18 CLERK OF THE COURT: Prosecution's document
19 No. 11A(3) will receive exhibit No. 639B.

20 (Whereupon, the document above referred
21 to was marked prosecution's exhibit No. 639B and
22 received in evidence.)

23 MR. TAVENNER: I will read exhibit 639B:

24 "Telegram (Secret Cipher Process)

25 "To be kept in locked file.

1 "Tokyo 10 July 1941

2 "Arrival 11 July 1941.

3 "Most urgent!

4 "All symptoms are pointing to the fact that
5 the Japanese move against Indo-China is now imminent;
6 I reported on it already; in MATSUOKA's message to The
7 German Foreign Minister it was described as a move for
8 securing bases (points d'appin). According to con-
9 fidential information at least three divisions are
10 scheduled for action in order to get a firm hold on the
11 most important towns and establishments including
12 Saigon. According to confidential information from a
13 reliable source the Key-day for action is to be 17 July.

14 "Utterances by MATSUOKA (compare telegram of
15 21 June, No. 109) showed that Japanese government intended
16 at first to ask German government to obtain Vichy's
17 consent to the move. As I was told confidentially,
18 Ambassador OSHIMA was informed by German authorities
19 that mediation between Tokyo and Vichy re the Indo-
20 China problem was not advisable. Now Japanese Govern-
21 ment intends, before the action, to propose to the
22 French Government military co-operation for the joint
23 defense of Indo-China, demanding immediate occupation
24 of the said bases. The announcement of the move was
25 made only shortly beforehand because it was intended

1 to preclude a possible -- though not likely -- inter-
2 vention of the Anglo-Saxon countries. Should these
3 resort to military measures, contrary to expectations,
4 Japan would fight. Preparations were made accordingly.
5 Certain measures regarding maritime transport have also
6 been ordered. No serious resistance is expected from
7 the French.

8 "The British ambassador has made inquiries
9 at the Japanese Foreign Office about Japanese inten-
10 tions, pointing to certain press reports saying that
11 a Japanese move against Indo-China would take place in
12 about 14 days; such intentions on the part of Japan
13 were flatly denied. The American Embassy received a
14 similar reply.

15 "As reported, the Japanese government will
16 probably for the time being content itself with the
17 securing of Indo-China, soothing the (1 group missing in
18 telegram) who are pressing for further action by
19 pointing to the time necessary for preparation.

20 "Director of the European Section, Japanese
21 Foreign Office, stated that with regard to Indo-China
22 Japan had to beat all others to the punch in order to
23 get the start on action initiated by the Anglosaxons
24 and DeGaullists. Besides, French Indo-China must
25 substitute economically after the breakdown

1 of the economic negotiations with the Netherlands
2 Indies.

3 "In view of the (1 group missing in telegram)
4 political significance of the occupation of Indo-
5 China for the further development of the Southern ques-
6 tion. The cohesion of the French Colonial Empire
7 and also for direct German economic interests (raw
8 rubber question, etc.) I would be thankful for an
9 instruction as to what to say as well as for the
10 information whether the German Government was con-
11 sulted.

12 Signed: "OTT."
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1 MR. ONETO: I offer in evidence prosecution
2 document No. 1383-C and D. This is a document con-
3 sisting of two telegrams found in the office of the
4 Japan Foreign Ministry, each addressed to Ambassador
5 KATO in France. The first telegram is No. 273 and
6 was sent July 12, 1941; the second is No. 274 and is
7 dated July 12. They relate to the decision of the
8 Japanese Government and Cabinet Council to take pos-
9 session of military bases and to dispatch Japanese
10 forces to South French Indo-China.

11 THE PRESIDENT: Admitted on the usual terms.

12 CLERK OF THE COURT: Prosecution's document
13 No. 1383-C and D will receive exhibit No. 640.

14 (Whereupon, the document above re-
15 ferred to was marked prosecution's exhibit No.
16 640 and received in evidence.)

17 MR. TAVENNER: I will read exhibit 640:

18 "Telegram No. 273, addressed to Ambassador
19 KATO in France, sent July 12, 1941.

20 "1. In order to meet the serious inter-
21 national circumstances of the recent days and to
22 make headway to establish the East Asia Co-prosperity
23 sphere, the Japanese Government has decided in the
24 Cabinet Council to take possession of military bases
25 and to dispatch Japanese forces to South French

1 Indo-China. And now we are going to make a proposal
2 to that effect to the French Government. This decision
3 was made by the Japanese Government with firm de-
4 termination to realize it in spite of any hinderances
5 by Britain and America and even if the French Gov-
6 ernment or the authority of French Indo-China oppose
7 it, we are to force carrying it out.

8 "2. Though the relations between Japan and
9 French Indo-China have been improved gradually since
10 last year, they are not yet satisfactory. And when
11 Britain and America are going to enforce their boy-
12 cott against Japan, unless we secure solid ground in
13 South French Indo-China on this very occasion, it
14 will be impossible, after all, to have her act en-
15 tirely in concert with us. We feel that our re-
16 quirement at this time to press her again to do the
17 difficult thing in spite of her repeated concilia-
18 tion, and we truly do not want this, and taking into
19 consideration the recent attitude of France in ap-
20 proaching the axis powers, there might occur
21 delicate relations. For all these facts, Japan is
22 compelled to take this measure for her self-existence
23 and self-defense and for pursuing her Southern policy.

24 "3. I wish you, (Ambassador KATO), to open
25 negotiation at once with the French. Once, in a

1 general explanation covering the joint-defense to
2 the advance of the Japanese forces, you will make
3 the proposal of telegram No. 274 and receive her
4 answer, yes or no, during the 20th, Japanese time.
5 In various relations, it is most preferable for us
6 that France give her consent to our requirement
7 enabling us to dispatch military forces in the form
8 of peaceful occupation. However, if we do not make
9 haste, it will give her a chance to prolong the ne-
10 gotiation and in the meanwhile Britain and America
11 will make a fuss about it, which we must avoid to
12 the utmost. We wish you to negotiate with her as
13 fast as possible to force her to give a yes or no
14 by the above-mentioned date at the latest. When
15 she agrees to it you will exchange immediately with
16 her the document shown in separate telegram No. 276.
17 (Now, the military authority is gradually preparing
18 to start on about the 20th, which date, in relation
19 to strategy, is absolutely impossible to be changed.
20 If France agrees to it by that time, it will become
21 a peaceful advance, and if not, a military occupation.
22 I inform you just for your understanding only.)

23 "4. This requirement of ours is done with
24 an extraordinary firm resolution. You shall have
25 France recognize thoroughly that if she refuses it

1 and Japan has her troops advance from her own stand-
2 point, it is possible that a grave change might occur
3 to the situation of French Indo-China. It is need-
4 less to mention, if she gives consent to it, we are
5 ready to secure solemnly the territorial integrity
6 of French Indo-China and sovereignty of France over it..
7 Even this proposal in itself, from another angle, is
8 made from our inmost feeling to fulfil this responsi-
9 bility. You may utilize fully this point in per-
10 suading her. When she consents to it, of course, we
11 shall kindly afford facilities to supply goods and
12 arms to French Indo-China as well as to axis powers.

13 "5. From the conclusion of MATSUOKA -
14 'Henri' Arrangement last year until the recent con-
15 clusions of the Franco-Japan Protocol and Economical
16 Agreement, France has sincerely been endeavoring to
17 approach Japan. But now, again, with such a military
18 requirement being proposed, France will probably feel
19 it as beyond her expectation. It is, however, the
20 necessary measures due to the said serious circum-
21 stances of the recent days and you will have it un-
22 derstood fully by France that it is not because we
23 intend to infringe boldly upon her sovereignty.

24 "6. 'Henri', the Ambassador to Tokyo, is
25 suspected to belong to the 'deGaulle' faction and it

1 is a fact that contents of negotiation between the
2 Japanese Government and him are secretly being in-
3 formed immediately to the American and to the British
4 Ambassadors to Japan. Therefore, this time, the
5 negotiation is to be made at your place. As the
6 matter is of great importance, I wish, you will
7 negotiate directly with Marshal Petain. Of course,
8 according to the conditions in the French Govern-
9 ment, it cannot be helped that you may have to ne-
10 gotiate with Darlan. Further, if this proposal
11 leaks out to British-American side, only involved
12 difficulties are feared to take place uselessly, I
13 wish you will give strict notice to the French
14 Government to take full caution. Please telegram
15 message to Germany, too."

16 MR. ONETO: I now offer in evidence pro-
17 secution document No. 2593-C, which is an intercepted
18 message and is a copy of one of the items included
19 in exhibit 603 for identification. This intercepted
20 message is from Canton to Tokyo and is dated July 14,
21 1941. It relates to the occupation of French Indo-
22 China.

23 THE PRESIDENT: Admitted on the usual terms.

24 CLERK OF THE COURT: Prosecution's document
25 No. 2593-C will receive exhibit No. 641.

1 (Whereupon, the document above re-
2 ferred to was marked prosecution's exhibit
3 No. 641 and received in evidence.)
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1 MR. TAVENNER: I will read exhibit No. 641.

2 "Secret. From: Canton. To: Tokyo. July 14,
3 1941. Purple. To be kept secret within the Department.

4 "Re my #253a. Subsequent information from
5 military officials to the Attaches is as follows."

6 I will omit reading paragraph numbered 1.

7 "2. The immediate object of our occupation
8 of French Indo-China will be to achieve our purposes
9 there. Secondly, its purpose is, when the international
10 situation is suitable, to launch therefrom a rapid
11 attack. This venture we will carry out in spite of
12 any difficulties which may arise. We will endeavor
13 to the last to occupy French Indo-China peacefully
14 but, if resistance is offered, we will crush it by
15 force, occupy the country and set up martial law.
16 After the occupation of French Indo-China, next on
17 our schedule is the sending of an ultimatum to the
18 Netherlands Indies. In the seizing of Singapore the
19 Navy will play the principal part. As for the Army,
20 in seizing Singapore it will need only one division
21 and in seizing the Netherlands Indies, only two. In
22 the main, through the activities of our air arm (in
23 your city, the Spratley Islands, Parao, Thaiese
24 Singora, Portuguese Timor and French Indo-China) and
25 our submarine fleet (in the South Seas mandate islands,

1 Hainan Island, and French Indo-China) we will once
2 and for all crush Anglo-American military power and
3 their ability to assist in any schemes against us.

4 "3. The troops soon to occupy French Indo-
5 China will be reorganized as the 25th Army Corps (one
6 Army Corps consists of four divisions) and also the
7 30th Army Corps, consisting of the South China forces,
8 which will be assigned to special duty with airplanes,
9 tanks, and howitzers. General IIDA (the IIDA Army
10 mentioned in preceding communications has been changed
11 to the Nishimura detachment) will be placed in command
12 and general military headquarters will be set up in
13 Saigon. All preparations have been made. The ship
14 fees have been paid and the expedition will soon pro-
15 ceed from here."

16 MR. ONETO: I present prosecution document
17 No. 1375 for introduction in evidence. This is a
18 telegram signed "Rintelen," and was addressed to the
19 German Foreign Minister and was also transmitted to
20 Tokyo and Paris. It is dated July 1941. It relates
21 to Japanese negotiations with the French Government
22 to secure among other things, naval and air bases.

23 THE PRESIDENT: Admitted on the usual terms.

24 CLERK OF THE COURT: Prosecution's document
25 No. 1375-A will receive exhibit No. 642.

1 (Whereupon, the document above
2 referred to was marked prosecution's exhibit
3 No. 642, and was received in evidence.)
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1 MR. TAVENNER: I will read Exhibit No. 642.

2 "TELEGRAM (Secret Cipher Process).

3 "The German Foreign Minister (Koenigs-
4 berg) July 19, 1941; arrived July 19, 1941.

5 "Diplogerma Tokyo. Diplogerma Paris.

6 "Note: Transmitted to Tokyo under No.
7 1094 and to Paris under No. 3712.

8 "Ambassador OSHIMA handed to the Foreign
9 Minister the following memorandum with an appendix
10 concerning the Japanese demands on France regarding
11 Indo-China, on the 17th of this month:

12 "The Japanese Government has started ne-
13 gotiations with the French government with a firm
14 decision in order to secure for herself, among other
15 things, naval and air bases in Indo-China. A proposal
16 made in this connection from Japanese side is attached
17 in the Appendix. The realization of this plan is
18 the first step for our push to the South. It will
19 undoubtedly play an important part as a diversion of
20 the English-American forces. In this sense the Japa-
21 nese government believes that in pursuing this aim she
22 is giving valuable assistance to Germany and Italy,
23 loyal to the spirit of the Tripartite Pact. She,
24 therefore believes to be able to assume that the
25 German government will not only refuse any entreaty

1 of the French government to mediate a refusal or
2 mitigation of the Japanese proposal but will also
3 stand at the side of the Japanese government by en-
4 deavoring to convince the French government of the
5 appropriateness of its acceptance.'

6 "End of memorandum.

7 "Appendix follows: Confidential.

8 "'1. France and Japan undertake the obliga-
9 tion to cooperate militarily for the common defense
10 of French Indo-China.

11 "'2. For this purpose the French Govern-
12 ment will authorize Japan to adopt the following
13 measures:

14 "'(a) despatch of the necessary number of
15 Japanese troops, fleet units and air units to South
16 Indo-China;

17 "'(b) use of the following eight localities
18 as air bases: Siemreap, Phnom-Penh, Tourane, Nhatrang,
19 Beinhua, Saigon, Scotrang and Kompongtrach.

20 "'Use of Saigon and the Bay of Camran as
21 naval bases; the Japanese forces will bring the nec-
22 essary installations.

23 "'(c) These forces will have all freedom re-
24 garding billeting, maneuvers and movements. Special
25 facilities for the fulfillment of their task will be

1 of the French government to mediate a refusal or
2 mitigation of the Japanese proposal but will also
3 stand at the side of the Japanese government by en-
4 deavoring to convince the French government of the
5 appropriateness of its acceptance.'

6 "End of memorandum.

7 "Appendix follows: Confidential.

8 "1. France and Japan undertake the obliga-
9 tion to cooperate militarily for the common defense
10 of French Indo-China.

11 "2. For this purpose the French Govern-
12 ment will authorize Japan to adopt the following
13 measures:

14 "(a) Despatch of the necessary number of
15 Japanese troops, fleet units and air units to South
16 Indo-China;

17 "(b) use of the following eight localities
18 as air bases: Siemreap, Phnom-Penh, Tourane, Nhatrang,
19 Beinhua, Saigon, Scotrang and Kompongtrach.

20 "Use of Saigon and the Bay of Camran as
21 naval bases; the Japanese forces will bring the nec-
22 essary installations.

23 "(c) These forces will have all freedom re-
24 garding billeting, maneuvers and movements. Special
25 facilities for the fulfillment of their task will be

1 will be afforded to them. This also includes the
2 rescission of the limitations provided in the Nishi-
3 hara-Martin agreement.

4 "(d) The French Government will deliver to
5 the Japanese forces the required amount of foreign
6 bills of exchange; the Japanese government is willing
7 to pay for these in accordance with modalities, mu-
8 tually determined.

9 "3. The French government will agree to a
10 general plan of entry of these forces. The modalities
11 of entry will be the topic of consultation between the
12 local Japanese and Indo-Chinese authorities. In order
13 to exclude the possibility of a conflict the French
14 authorities will adopt appropriate measures such as
15 the removal of Indo-Chinese forces from the neighbor-
16 hood of landing points of the Japanese forces.'

17 "The Foreign Minister of the German Reich
18 requests to use restraint in the matter.

19 "(signed) Rintelen".
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1 MR. ONETO: I offer in evidence prosecution
2 document 1632-DD. This is an extract from the diary
3 of KIDO under date of 26 September 1940, and refers
4 to certain action taken by the Japanese forces in the
5 face of enemy opposition in Indo-China.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 1632-DD will receive exhibit No. 643.

9 (Whereupon, the document above
10 referred to was marked prosecution's exhibit
11 No. 643, and was received in evidence.)

12 MR. TAVENNER: I ask the permission of the
13 Tribunal to read one paragraph from this document
14 sentence by sentence, as the translation pool does
15 not appear to have a Japanese translation from which
16 they can read simultaneously.

17 I will read exhibit 643.

18 "Entry from Marquis KIDO's Diary. 26 Septem-
19 ber 1940."

20 I will read beginning at the paragraph in the
21 middle of the page.

22 "At 11:30 called in Masazo YOSHIDA and con-
23 ferred re the Imperial Rescript. Officer SAMEJIMA
24 came in at two and reported as follows: The NISHIMURA
25 unit which was to have advanced peacefully into French

1 Indo-China returned, despite the advice of the Com-
2 mander of the Navy support force, to carry out a land-
3 ing in the face of the enemy to carry out air-bombard-
4 ment of Haiphong. It is reported that the NISHIHARA
5 organization was incensed at these wrongful measures
6 and left the spot. I understand that His Majesty,
7 since this is such an important matter, ordered that
8 a report should be made also to the Lord Privy Seal.
9 It is indeed regrettable that such measures are taken
10 by those in the field who do not understand the general
11 situation. It is people like this who make the grave
12 blunders."

13
14 MR. LOGAN: If the Tribunal please, I would
15 like to refer to the Language Section, that sentence
16 beginning with the words "The NISHIMURA unit. . ."
17 It should read as follows:

18 "The NISHIMURA unit which was to have advanced
19 peacefully into French Indo-China boldly carried out a
20 landing in the face of the enemy and bombed Haiphong
21 from the air, despite having received a communication
22 from the Navy Support Command."

23 THE PRESIDENT: Is there any substantial
24 difference, Mr. Logan?

25 MR. LOGAN: Yes, there is, your Honor. In
view of the balance of that paragraph it is quite

1 different.

2 THE PRESIDENT: I cannot see any difference;
3 but I will direct the Language Section to give us their
4 report.

5 MR. ONETO: Attention of the Tribunal is
6 directed to prosecution document No. 1652, which is
7 in evidence as exhibit No. 588. This document is
8 entitled "Resolutions Concerning the Japanese-American
9 Negotiations Adopted through the Conferences in the
10 Imperial Presence."

11 This document consists of four resolutions,
12 including the resolution adopted at the Imperial Con-
13 ference, July 2, 1941, in which it is set forth that
14 Japan will make preparations for a war with Britain
15 and the United States and then declared, "First we
16 shall accomplish the execution of our schemes against
17 French Indo-China and Thailand following the 'Principle
18 Policy towards French Indo-China and Thailand,' and
19 'Matters concerning the promotion of our Southern
20 Policy,' thereby stabilizing our structure for the
21 Southern Advance."

22 I now offer in evidence prosecution document
23 No. 4052-E. This is a telegram from the German Amba-
24 sador in Tokyo, dated 20 July 1941, a copy of which
25 was found in the files of the German Foreign Office.

1 The telegram relates to the contemplated
2 action by Japan in the event that Vichy did not come
3 to terms with Japan regarding Indo-China.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution's document
6 No. 4052-E will receive exhibit No. 644.

7 (Whereupon, the document above
8 referred to was marked prosecution's exhibit
9 No. 644, and was received in evidence.)

10 MR. TAVENNER: I will read exhibit No. 644,

11 "Telegram (Secret Cipher Process). To be
12 kept in locked file. Tokyo, 20 July 1941. Arrival,
13 20 July 1941. Most urgent!

14 "Newly appointed Foreign Minister Admiral
15 TOYODA has just asked me to see him and received me
16 in the presence of the former Vice Foreign Minister
17 OHASHI."

18 I will omit reading the next two paragraphs
19 and continue with the last paragraph.

20 "I then asked whether the Indo-China action
21 is influenced by the Cabinet change. This was denied
22 by the Foreign Minister. OHASHI added that the Japan-
23 ese Government had pressed Vichy for a reply to their
24 measures. Darlan had promised to take a stand speedily
25 so that a telegraphic report from the Japanese Ambassador

1 was expected hourly. Should the French answer not be
2 in the affirmative, the Japanese Government would
3 resort to force. It was, however, hoped to come to
4 terms with Vichy on the modality of the occupation."

5 Signed "Ott."

6 MR. ONETO: I now present prosecution document
7 No. 4052-J for introduction. It is a telegram from
8 Bangkok dated 18 July 1941, marked "Secret Reich Matter,"
9 and signed "Scholl," a copy of which was also sent to
10 Tokyo. This message was found in the files of the
11 German Foreign Office and, among other things, shows
12 a defensive front was being erected aimed at the sup-
13 pression of the de Gaulle movement through the occu-
14 pation of Indo-China.

15 THE PRESIDENT: Admitted on the usual terms.

16 CLERK OF THE COURT: Prosecution's document
17 No. 4052-J will receive exhibit No. 645.

18 (Whereupon, the document above
19 referred to was marked prosecution's exhibit
20 No. 645, and was received in evidence.)

21 MR. TAVENNER: I will read exhibit 645.

22 "Telegram (Secret Cipher Process). Bangkok,
23 18 July 1941. Arrival, 18 July 1941. Urgent! Secret
24 Reich Matter.

25 "At the same time to (one group garbled) the

1 Navy General Staff attache group.

2 "Japanese military attache group garbled
3 reports:

4 "To carry out the planned Siberian operation
5 Japan is erecting a defensive front against America,
6 England, China and Netherlands Indies, aimed at the
7 same time at the suppression of the de Gaulle movement,
8 through the occupation of Indo-China. Deployment in
9 Indo-China shall be finished at the beginning of Aug-
10 ust."

11 I will omit reading the rest of the telegram.

12 Signed "Scholl."

13 MR. ONETO: I offer in evidence prosecution
14 document No. 4025-E(7). This is a telegram from Paris
15 dated 21 July 1941, marked "Secret matter of State."
16 It is signed "Schleier." The original of this document
17 was found in the files of the German Foreign Office,
18 and relates to the demands made on 14 July 1941 by the
19 Japanese Government to the French Government regarding
20 Indo-China and part of the reply made thereto by the
21 French Government.

22 THE PRESIDENT: Admitted on the usual terms.

23 CLERK OF THE COURT: Prosecution's document
24 No. 4025-E(7) will receive exhibit No. 646.

25 (Whereupon, the document above

1 referred to was marked prosecution's exhibit
2 No. 646, and was received in evidence.)

3 MR. TAVENNER: I will read exhibit 646.

4 "Telegram (Code Clerk). To be kept in
5 locked file. Paris, 21 July 1941. Arrival, 21 July
6 1941. Most urgent! (Secret matter of State).

7 "Re: Your Telegram No. 3712 of 19 July 41,
8 special train 678.

9 "Today at noon Admiral DARLAN handed me a
10 verbal note through State Secretary BENOISTMECHIN.
11 Wording as follows:

12 "'On 14 July 1941 the Japanese Government handed
13 a verbal note to the French Government containing the
14 following demands.'

15 "The following is the text as attached to the
16 Japanese memorandum as per your telegram 3712. The
17 French note then continues as follows: This note was
18 accompanied by a personal message from Prince KONOYE
19 to Marshall PETAIN. In this message the president of
20 the Japanese Privy Council states:

21 "'I wish to emphatically assure you of JAPAN's
22 firm determination to carry out the duties and to bear
23 the responsibilities resulting from her solemnly under-
24 taken obligation regarding the respecting of the
25 territorial integrity of Indo-China and the sovereignty

1 of FRANCE over that Union. JAPAN in no way intends to
2 shun this obligation.' The French Government has drawn
3 to the attention of the Japanese Government that apart
4 from the grave risk resulting from such action as far
5 as the native population is concerned:

6 "1) The acceptance of the Japanese demands,
7 in the form of military cooperation would unavoidably
8 be interpreted as a hostile action against ENGLAND
9 and the UNITED STATES, which would imply a risk for the
10 French Government of bringing on reprisals upon them-
11 selves.

12 "2) Owing to the armistice France is not in a
13 position to decide upon such an important decision
14 without previously approaching the German Government."

15 I will omit reading the next paragraph.

16 "Despite this argument, the Japanese Govern-
17 ment insisted on receiving the reply of the French
18 Government before 1800 hours, Tuesday, 22 July, noting
19 that the Japanese troops would enter Indo-China with
20 no respect for the contents of this reply.

21 "In view of the gravity of the situation created
22 thereby, the French Government has replied to the
23 Japanese that they could not help but give in to violence.
24 They still, however, asked the Japanese Government to
25 consent in advance to the following points."

1 I will omit reading the first two numbered
2 paragraphs and will begin with 3.

3 "3) The Japanese occupation is only temporary
4 and strictly limited by the duration of the operations
5 for which it is destined."

6 I will omit reading the rest of the telegram.
7 Signed "Schleier."

8 MR. ONETO: Prosecution document No. 785 is
9 offered for identification only. This is a collection
10 of treaties between France and Japan concerning French
11 Indo-China, including a treaty that was not announced.
12 It was published by the Treaty Bureau of the Japanese
13 Foreign Ministry, April 1943.

14 THE PRESIDENT: It will be marked for identi-
15 fication only.

16 CLERK OF THE COURT: Prosecution's document
17 No. 785 will be marked exhibit 647 for identification
18 only.

19 (Whereupon, the document above
20 referred to was marked prosecution's exhibit
21 No. 647, for identification only.)

22 MR. ONETO: I now offer in evidence prosecution
23 document No. 785-I, which consists of letters exchanged
24 between Ambassador KATO and Foreign Minister Darlan.
25 It is a separate and distinct part of the material

1 contained in prosecution document No. 785 that has
2 been marked as exhibit No. 647.

3 THE PRESIDENT: Admitted on the usual terms.

4 CLERK OF THE COURT: Prosecution's document
5 No. 785-I will receive exhibit No. 647-A.

6 (Whereupon, the document above
7 referred to was marked prosecution's exhibit
8 No. 647-A, and was received in evidence.)

9 MR. TAVENNER: I will read exhibit 647-A.

10 "(Outgoing Letter). Letters Exchanged between
11 Ambassador KATO and Foreign Minister Darlan."

12 THE PRESIDENT: Do you have the date?

13 MR. TAVENNER: I see no date.

14 THE PRESIDENT: Well, this is a convenient
15 break. We will recess now for fifteen minutes.

16 (Whereupon, at 1045, a recess was taken
17 until 1100, after which the proceedings where
18 resumed as follows:)

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1 MARSHAL OF THE COURT: The Tribunal is now
2 resumed.

3 THE PRESIDENT: Mr. Tavenner.

4 MR. TAVENNER: I will call the Tribunal's
5 attention to the various dates which are referred to
6 in the body of this document, which, I believe, will
7 answer your Honor's question. (Reading:)

8 "(Outgoing Letter)

9 "LETTERS EXCHANGED BETWEEN AMBASSADOR
10 KATO AND FOREIGN MINISTER DARLAN

11 "By order of my Government I have the
12 honour to present for Your Excellency's considera-
13 tion the following proposals:

14 "1. France and Japan engage to cooperate for
15 the joint defence of French Indo-China.

16 "2. To this end the French Government shall
17 grant to Japan the right to take the following measures:

18 "(a) The dispatch to Southern Indo-China
19 of the number of troops, naval, units, and air form-
20 ations judged necessary.

21 " " (b) The use as air bases of the following
22 localities: Siemreap, Phnom-penh, Tourane, Lhatrang,
23 Bienhoa, Saigon, Soctrang and Koonpongtrach; as naval
24 bases, Saigon and Camrand Bay. The necessary install-
25 ations shall be set up in those places by the Japanese

1 forces.

2 "(c) These forces shall be granted facilities
3 for billeting, carrying out manoeuvres and training.
4 Their liberty of movement shall be recognized.

5 "They shall also be accorded the special
6 facilities necessary for the accomplishment of their
7 task: this entails the suppression of restrictions pro-
8 vided in the Nishihara-Martin Agreement.

9 "(d) The French Government shall provide the
10 necessary currency to the Japanese forces up to an
11 amount of twenty-three million Indo-China piastres
12 for the current year, or four million five hundred thou-
13 sand Indo-China piastres monthly: this sum does not
14 include the currency which have to be provided to the
15 Japanese forces in Tonking in accordance with previous
16 agreements. The Japanese Government is prepared to
17 pay for the above mentioned currency at the choice of
18 the French Government either in convertible yen, in
19 U.S. dollars, or in gold.

20 "3. The French Government shall agree to
21 the general terms of the entry of these forces and
22 take all pertinent steps to avoid the possibility of
23 a chance clash with Indo-China Forces, such as the
24 temporary withdrawal of these latter from the neighbor-
25 hood of the points of disembarkation of the Japanese

1 forces.

2 "4. The details concerning the movements of
3 the Japanese forces shall be drawn up by agreement
4 with the Japanese military authorities on the spot.
5 I take the liberty of vigorously stressing to Your
6 Excellency that the French Government has an earnest
7 desire to record its adherence to the above-mentioned
8 proposals with the least possible delay, as the under-
9 standing arrived at ought, in the opinion of my Gov-
10 ernment, to be made the object of a formal agreement
11 as soon as possible.

12 "In presenting the above I beg once more
13 to express my highest respect to Your Excellency.

14 "Excerpts translated from Incoming Letter

15 "The first part of Foreign Minister Darlan's
16 reply acknowledges receipt of the letter from the
17 afore-mentioned Ambassador Kato. The latter part of
18 the letter appears the following reply on the part of
19 the French. At the same time by another communication
20 the aforesaid Foreign Minister expresses certain
21 wishes under the headings A, B, C which appear below:

22 "1. The French Government takes note of
23 the new step taken on 20 July by the Japanese Ambassa-
24 dor which demands a formal reply before 6 o'clock Tues-
25 day, 22 July, to the memorandum sent on 14 July.

1 "2. Although it understands the necessities
2 which bring about this step, the French Government must
3 once more, earnestly draw the attention of the Imperial
4 Government to the gravity of the consequences of the
5 putting into operation of the plan announced in the
6 memorandum of 14 July.

7 "3. However, the circumstances are such that,
8 taking into account the firm assurance given by His
9 Excellency, Prince Konoye, in his letter of 13 July
10 addressed to Marshal Petain, it has no other course
11 than to bow before the insistence of the Japanese
12 Government.

13 "4. It is in this spirit, that, in cooper-
14 ation with the Japanese Government, the French Govern-
15 ment, true to the policy which it has always professed,
16 will guarantee the defense of Indo-China against any
17 attack and will share in defensive action having as
18 its object such security, all offensive operations be-
19 ing excluded, in accordance with the agreement of French
20 and Japanese local headquarters.

21 "5. It must be well understood, on the other
22 hand, that the presence of Japanese forces on the terr-
23 itory or in the waters of the Union shall be of only
24 a temporary nature and that the Imperial Government
25 will proceed to the total withdrawal of its forces as

1 soon as the danger, in view of which they were ad-
2 mitted, has been removed.

3 "6. Referring to the letter written by His
4 Excellency Prince Konoye to the Marshall, the French
5 Government is anxious to underline the fact that such
6 a defensive cooperation does not imply any renuncia-
7 tion nor any limitation of the political rights of
8 France once the territories of the Union. Dominant
9 considerations compel the French Government to demand
10 of the Imperial Government to be good enough to demon-
11 strate clearly in a public statement, in terms similar
12 to those which appear in the message of His Excellency
13 Prince Konoye the firm determination of Japan to ful-
14 fill the duties to shoulder the responsibilities flow-
15 ing from the solemn promise made by him with regard to
16 the territorial integrity of Indo-China and of French
17 sovereignty over this Union'.

18 "7. The French Government urges the extremely
19 pressing necessity for such a declaration which is in-
20 dispensable in the new circumstances for the mainten-
21 ance of order in Indo-China and for the proper execution
22 of the first steps rendered necessary by the arrival of
23 Japanese armed forces.

24 "A. (1) The French Government, intending,
25 under the terms of its communication of today's date,

1 to participate in the joint defence of Indo-China
2 territory, relies on the Imperial Government supply-
3 ing to the French Armed Forces in Indo-China supple-
4 mentary means of defence of all kinds which the pres-
5 ent urgency has not permitted France to obtain else-
6 where. The French Government will be happy to know
7 with the least delay the feeling of the Imperial Govern-
8 ment on the preceding suggestions.

9 "(2) In the same spirit the French Govern-
10 ment will give to the Government-General of Indo-China
11 all necessary instructions so that all military organ-
12 izations actually on the spot shall remain available
13 for defense, especially all coast defense works.

14 "B. (1) The French Government emphasizes
15 the extreme importance which it attaches to the public
16 statement relative to the respect for the integrity
17 of Indo-China and for the sovereignty of France over
18 this Union.

19 "(2) In the absence of such a statement
20 neither French public opinion nor the troops stationed
21 in Indo-China themselves would not understand and
22 consequently would not admit the arrival of foreign
23 forces into territories which are precisely those they
24 are there to guard.

25 "C. As regards arrangements of a technical

1 nature which figure in the Japanese proposals announced
2 in the Japanese Ambassador's letter of 21 July, the
3 Japanese Government will doubtless realize, as does
4 the French Government, that their putting into execu-
5 tion must be the occasion for an examination by com-
6 petent authorities, more particularly as regards the
7 suggestion put out in Article 3 (at the end) relative
8 to 'the temporary withdrawal of Indo-China forces
9 from the neighbourhood of the points of disembarkation
10 of the Japanese forces.' "

1 THE PRESIDENT: My colleagues are insistent
2 on having the date, if you can find it. I thought
3 you might look for it during the recess.

4 MR. ONETO: Mr. President, we will find the
5 dates which are asked by the Court. On the original
6 these dates do not figure, but with the help of the
7 other documents, we will be able to find them.

8 THE PRESIDENT: It should be indicated at
9 this stage. It may come very late in the proceedings
10 and we would have to hunt through the record in the
11 hope of finding when we come to this document.

12 MR. SMITH: If the Court please --

13 THE PRESIDENT: Mr. Smith.

14 MR. SMITH: Maybewe can clarify the Court's
15 inquiry. I understand the Japanese draft shows the
16 date of July 14, 1941. It does not appear on the
17 English.

18 THE PRESIDENT: The date is always important,
19 sometimes vitally important.

20 (Whereupon, Mr. Tavenner consulted
21 with the language arbiters.)

22 THE PRESIDENT: Major Moore.

23 MAJOR MOORE: If the Tribunal please,
24 there is no date in the Japanese text of the original.

25 THE PRESIDENT: Mr. Oneto, you must do

1 all in your power to assign a date to that document,
2 and let us know the result of your inquiries.

3 We will proceed with the evidence.

4 MR. ONETO: I now offer in evidence prosecu-
5 tion document No. 11-A(5). This is one of the
6 items included in prosecution document No. 11, which
7 has been marked exhibit 639 for identification. It
8 is a telegram from the Japanese Ambassador in Tokyo,
9 dated 22 July 1941, relating to the unconditional
10 acceptance by the French Government of the main
11 point of the Japanese demand regarding Indo-China.

12 THE PRESIDENT: Admitted on the usual terms.

13 CLERK OF THE COURT: Prosecution's document
14 No. 11-A(5) will receive exhibit No. 648.

15 (Whereupon, prosecution's exhibit
16 No. 648 was received in evidence.)

17 MR. TAVENNER: I will read exhibit No. 648:

18 "Telegram (Secret Cipher Process)

19 "Tokyo 22 July 1941 - 6:40 hours

20 "Arrival 22 July 1941 - 1740 hours

21 "No. 1317 of 22 July

22 "Most Urgent!

23 "Secret! Re Telegram No. 1304 of 20th,

24 pol VIII

25 "When paying me a farewell visit former Vice

1 Foreign Minister Ohashi told me today that Ambassador
2 at Vichy had just wired that on the basis of unofficial
3 information he was expecting today or tomorrow the un-
4 conditional acceptance of the main points of the Jap-
5 anese demands re Indo-China by the French Government.

6 "The Vice Foreign Minister commented that
7 the commencement of the maritime transports was defi-
8 nitely to take place on 24 July, involving approximately
9 40,000 troops. It is estimated that it would take
10 several weeks before the planned naval and air bases
11 were completely set up and the troops quartered.

12 "He had denied the intention, on the part of
13 Japan to take military steps in Indo-China when the
14 British ambassador asked him fourteen days ago. The
15 United States of America has so far made no inquiries.

16 Signed: "OTT"
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1 MR. ONETO: I now offer in evidence
2 prosecution document No. 1031, which is a record of
3 the proceedings of the first meeting of the Privy
4 Council regarding the Protocol between France and
5 Japan concerning military cooperation, held 28 July
6 1941, and at which were present the accused, War
7 Minister TOJO, Major General MUTO, and Rear Admiral
8 OKA.

9 THE PRESIDENT: Admitted on the usual terms.

10 CLERK OF THE COURT: Prosecution document
11 No. 1031 will receive exhibit No. 649.

12 (Whereupon, the above-mentioned
13 document was marked prosecution's exhibit
14 No. 649 and received in evidence.)

15 MR. ONETO: I wish to add that among the
16 accused noted here who were present at this meeting
17 there was also one of the accused, SUZUKI, President
18 of the Planning Board.

19 MR. TAVENNER: I will read exhibit 649:

20 "Proceedings of the Privy Council re
21 Protocol between France and Japan and re Military
22 Cooperation.

23 "The Inquiry Committee on the exchange of
24 the official documents regarding the conclusion of
25 protocol between France and Japan in connection with

1 common defense of French Indo-China, and military
2 cooperation.

3 "On July 28th (Monday) of Showa 16 (1941)
4 at 10 AM, the President and the Vice President of the
5 Privy Council and the Privy Councillors assembled in
6 the East 3rd room of the Palace, and as a bill of
7 inquiry was handed down by His Majesty, the Emperor,
8 at 9:40 AM of the same day, a general committee was
9 appointed by President HARA for considering the
10 above subjects."

11 I will not read the list of those present,
12 and I will omit reading the body of the document down
13 to the last paragraph on page 3.

14 (Reading): "Committee Member ISHII in-
15 quired on the validity of the preamble of the protocol
16 in regard to the articles of Protocol No. 3; the
17 degree the Government pressed upon French Government
18 for concluding this protocol; and whether the Govern-
19 ment's foreign policy hereafter would be to push to
20 the south while defending the north, or to push to
21 the north while defending the south."

22 I will omit reading the next paragraph.

23 "With regard to inquiry 2" -- this is near
24 the top of page 4 -- "With regard to inquiry 2, we
25 gave an intimation to the French Government in

1 submitting this proposal to Vice President DARLAN,
2 through our Ambassador in Paris, that an undesirable
3 situation was liable to develop if it failed to ac-
4 cept our proposal, and the Foreign Minister added that
5 the Government had already requested the governments
6 of Germany and Italy through our envoys to cooperate
7 with us in realizing the conclusion of this protocol
8 in case the French Government sought their advice in
9 the matter."

10 I will omit reading down to the middle of
11 the last paragraph on page 4:

12 "Also, as to France, the DE GAULLE Party
13 in the southern part of French Indo-China still kept
14 up its activities in cooperation with Great Britain
15 and U. S. A., and we were forced to take an effective
16 and forcible step against them."

17 I will omit reading down to the middle of
18 page 6, where I will begin with item 3:

19 "3) Questioned as to the relation between
20 Japan's foreign policy and the Government's declara-
21 tion re the conclusion of the common defense made on
22 the 26th ult., Foreign Minister TOYODA replied that
23 the recent declaration made by the Government had
24 given the impression to the third powers, especially
25 to the U. S. A., that Japan had penetrated into

1 French Indo-China by force. In order to prevent
2 the U. S. A. from taking unjust measures, the Govern-
3 ment wished to make it clear quickly that it /penetra-
4 tion into French Indo-China/ was made upon mutual
5 agreement, and therefore made an announcement that
6 an understanding had been made between the two
7 governments.

8 "4) Questioned upon the relationship be-
9 tween our penetration into northern French Indo-China
10 last year and the present measures, War Minister TOJO
11 answered that the penetration of last year was con-
12 cerned with the CHIANG regime, its aim was different
13 from that of the present measures, and although we
14 would be made responsible for common defense with
15 French Indo-China by the present agreement, the area
16 of our military activities should not be restricted.

17 "Committeeman NARA inquired that under the
18 arrangement made regarding the currency to be placed
19 at the disposal of our forces as provided in the
20 articles of exchange official note No. 1 of this pro-
21 posal, would not the size and the action of our forces
22 to be used in French Indo-China be restricted by having
23 the expenditure limited. War Minister TOJO answered
24 that the amount of money was estimated with an ample
25 margin to cover the necessary expense (all accounts

1 were to be settled by plaster except for the pay to
2 the soldiers, etc.) for the forces of about 40,000
3 which are at present planned to be sent over, and
4 therefore there would be no fear of restriction of
5 the size and action of our forces on account of the
6 expense.

7 "Committeeman SUGAWARA inquired upon the
8 nature of the 'NISHIHARA-MARTIN agreement' which was
9 referred in the articles of the exchange official
10 note No. 1 of this proposal, and whether it was not
11 a matter to have been submitted to the Privy Council,
12 to which Foreign Minister TOYODA and War Minister
13 TOJO explained that the agreement referred to was a
14 military agreement involving the Supreme Command,
15 although it was based on the 'MATSUOKA-HENRY agree-
16 ment,' and therefore they did not take the step of
17 referring it to the Privy Council. To the above
18 Committeeman FUTAKAMI added that he understood the
19 agreement referred to was a thoroughly international
20 agreement concluded between the Commanders-in-Chief
21 of the armies of both countries under the authori-
22 ties granted by the 'MATSUOKA-HENRY Agreement,' and
23 that it was same in nature as the exchange official
24 note of this proposal. However, the matter of af-
25 fairs was so urgent that there was no time to submit

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1 it to Privy Council, as had been explained by the
2 Premier at that time. Committeeman MINAMI suggested
3 that the fact that such explanation had been made by
4 the Premier at that time be clarified, but the Chair-
5 man of the Committee SUZUKI ruled that this question
6 should be left to the investigation of some later
7 date."

8 I will omit reading the remainder of the
9 proceedings.

10 MR. ONETO: I now present prosecution
11 document 1165 for introduction in evidence. It is
12 the Minutes of the second Privy Council at the con-
13 clusion of the Protocol between Japan and France for
14 a Common Defense of French Indo-China and for ex-
15 change of official documents regarding military co-
16 operation, held on July 28, 1941.

17 THE PRESIDENT: Admitted on the usual terms.

18 CLERK OF THE COURT: Prosecution document
19 No. 1165 will receive exhibit No. 650.

20 (Whereupon, the above-mentioned
21 document was marked prosecution's exhibit
22 No. 650 and received in evidence.)

23 MR. ONETO: I wish to add to the number of
24 those included already as having been present the
25 accused SUZUKI and TOJO.

1 MR. TAVENNER: I will read exhibit No. 650.

2 (Reading): "Minutes of the Privy Council
3 Meeting at the Conclusion of the Protocol Between
4 Japan and France for a Common Defense of French Indo-
5 China and for an Exchange of Official Documents
6 Regarding Military Cooperation."

7 I will omit the reading of the document
8 down to a point near the middle of page 3. I will
9 begin with "Reporter SUZUKI states."

10 (Reading): "Reporter SUZUKI states:

11 "We, the attendants today, have been
12 appointed the Investigation Committeemen by the
13 Emperor's order to discuss the conclusion of the
14 protocol between Japan and France for the common
15 defense of French Indo-China and the exchange of
16 official documents on military cooperation. We
17 have held the committee meeting immediately to
18 hear explanations from the ministers and other
19 officers concerned and we have deliberated on the
20 subject. I ask favour of your acknowledgment that I
21 cannot find any time to deliver reports for discussion
22 as the subjects are very urgent.

23 "According to the minister's explanation,
24 the relations between Japan and French Indo-China
25 have become gradually better since last year (1940)

1 and the success of the economic negotiations be-
2 tween Japan and French Indo-China and of the border-
3 dispute-mediation-conference between Thailand and
4 French Indo-China in Tokyo this spring has given im-
5 petus to the better friendship between Japan and
6 French Indo-China. However, the tendency of
7 dependence upon Anglo-America still remains in
8 French Indo-China."

9 I will omit reading the next paragraph.

10 (Reading): "Both in the interior of
11 French Indo-China and, especially, in the southern
12 region there are some who do not like to cooperate
13 with Japan; and de Gaul and his party are trying to
14 collaborate with Anglo-America."

15 I will omit reading the next paragraph.

16 (Reading): "The existing political under-
17 standing between the two nations cannot be sufficient
18 for them. The Japanese government has realized that
19 it is very necessary for Japan to make France closely
20 cooperate with us in the military field."

21 I will omit reading down to the last
22 paragraph on page 5:

23 (Reading): "No. 2 The Official Document
24 Exchanged.

25 "The object of this document is to conclude

1 an agreement concerning the measures to be taken
2 for the concerted defense of French Indo-China
3 based on the provisions in the above mentioned
4 Protocol with the form of reciprocating documents
5 between the representatives of the two nations
6 and the following clauses decided in this document;

7 "I. Toward the Japanese Government the
8 French Government shall admit

9 "A. The dispatch of a necessary force
10 of Japanese army troops, war vessels and air forces
11 to the southern Indo-China.

12 "B. The use of Siemreap and seven other
13 places as air bases, Saigon and Camrue Bay as naval
14 bases and to provide equipments for military purposes.

15 "C. The right of quartering, manoeuvres
16 and training of Japanese army, the freedom of action,
17 and to award special conveniences for the performance
18 of their duties.

19 "D. And the French Government shall
20 offer to the said Japanese army 23,000,000 Indo-
21 China piastre in currency for this year namely about
22 4,500,000 Indo-China piastre monthly, (however the
23 Japanese Government is prepared to repay with free
24 yen, U. S. dollar or gold).

25 "II. The French Government shall approve

1 the fundamental principles of the Japanese army's
2 advance and in order to avoid occurrences of contingent
3 clashes between the Indo-China army shall take all
4 effective steps.

5 "III. The details concerning the activities
6 of Japanese army shall be discussed and decided
7 between the Japanese and French authorities at the
8 actual place.

9 "It seems to me, that with this matter,
10 we aim to conclude an agreement which is necessary
11 for the two nations in order to engage in the defense
12 of French Indo-China in unanimous cooperation and
13 for the self-defense of Japan, and furthermore
14 it is indispensable for the stability of the Far
15 East and co-prosperity of Japan and France, so the
16 conclusion of this agreement may be said to be an
17 opportune measure, in view of the present strained
18 international situation. Therefore, this matter
19 was unanimously approved to be passed without amend-
20 ment by the Investigation Committee. I report the
21 result of the investigation."
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1 MR. ONETO: Prosecution document 1030 is
2 now offered in evidence. This consists of the copy
3 of the protocol between France and the Japanese Em-
4 pire concerning the joint defense of French Indo-China,
5 which was signed on July 29, 1941, together with
6 copies of two letters dated at Vichy on July 29,
7 1941. The letters are not signed, nor are the names
8 of the persons to whom they are addressed indicated.
9 They do, however, relate to the subject of this
10 protocol and were found in the files of the Japanese
11 Government relating to this protocol. Judging from
12 the context, although these letters are not signed,
13 it is possible to state that the first letter was
14 written by the Japanese Ambassador in Vichy, and the
15 second was a reply to this from Admiral Darlan, then
16 Foreign Minister in Vichy.

17 THE PRESIDENT: Admitted on the usual terms.

18 CLERK OF THE COURT: Prosecution's document
19 No. 1030 will receive exhibit No. 651.

20 (Whereupon, the above-mentioned
21 document was marked prosecution's exhibit
22 No. 651 and received in evidence.)

23 MR. TAVENNER: I will read exhibit No. 651.

24 (Reading): "Vichy, 29 July 1941.

25 "Your Excellency:

1 "With regard to the protocol signed today
2 by our two governments, I beg to request Your Ex-
3 cellency to confirm to me the agreement of the French
4 Government to the following proposals:

5 "(1) The French Government grants to
6 Japan the right to take the following measures:

7 "(a) The dispatching into South French
8 Indo-China of Japanese troops, naval craft and air
9 forces in a number judged necessary.

10 "(b) Use of the following 8 places:
11 SIEMPREAP, PHNOMPENH, TOURANE, NHATRANG, BIENHOA,
12 SAIGON, SOCTRANG and KOMPONGTRACH as airbases; and
13 SAIGON and the Bay of CAMRANH as naval bases. The
14 Japanese forces shall construct necessary facilities
15 at the above-mentioned places.

16 "(c) The above-mentioned Japanese troops
17 shall be given the right of quartering, maneuvering
18 and drilling and the freedom of their movement shall
19 be recognized. Similarly, they shall be given
20 special facilities for the accomplishment of their
21 tasks. This includes the abolition of various
22 restrictions stipulated in the NISHIHARA-MARTIN
23 Agreement."

24 I will omit reading the next paragraph.

25 (Reading): "(2) The French Government

1 shall give its consent to the general principles of
2 the entry of the above-mentioned Japanese troops and
3 take all effective measures for avoiding the occurrence
4 of any unexpected conflict with the Indo-Chinese troops.

5 "(3) The details concerning the movements
6 of the Japanese troops shall be discussed and decided
7 between the Japanese and French military authorities
8 on the spot. I take this occasion to pay again my
9 respects to your Excellency.

10 "Yours sincerely."

11 MR. BLEWETT: If the Court please, I would
12 like to ask the prosecution if this is the letter
13 that is supposed to be signed by Darlan, and if so
14 whether or not it has any evidence to indicate such
15 a signature.

16 MR. ONETO: Mr. President, we are submitting
17 the document to the Court just as we found it; but,
18 in view of the fact that the text is accompanied --
19 that they are accompanied by the text of an agreement
20 signed by the Japanese representative and the repre-
21 sentative of the French Government, we have reason
22 to believe that the first letter is from the
23 representative of the Japanese Government in Vichy,
24 Ambassador KATO, and the second is from the repre-
25 sentative of the French Government, Admiral Darlan.

1 There is no reason that when the agreement itself
2 bears the signatures of KATO and Darlan the letters
3 should be from other persons. I must, however, tell
4 the Court that on this point, too, we are making
5 further examination and that we will inform the Court
6 of the result.

7 MR. BLEWETT: If the Court please, it is
8 the position of the defense that the Tribunal should
9 determine who wrote these letters and what purposes
10 these documents have so far as evidence is concerned,
11 and that the opinion of counsel should not be given
12 in explanation, and we move that that opinion be
13 stricken from the record.

14 THE PRESIDENT: Well, he is answering an
15 inquiry, and the Court can accept just as much of
16 his answer as they see fit. If any contested facts
17 arise, if we cannot agree on this matter, then we shall
18 have to determine it in the usual way later.

19 Proceed.

20 MR. ONETO: Subject to these conditions,
21 I beg the Court to allow the reading of document 1030.

22 THE PRESIDENT: There is another matter to
23 which I desire to give attention almost immediately.
24 So we will recess now until half past one.

25 (Whereupon, at 1200, a recess was taken.)

AFTERNOON SESSION

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

5 THE PRESIDENT: We will deal first with the
6 application by the Soviet section of the prosecution to
7 be permitted to conduct the case in the Russian lan-
8 guage.

9 Mr. Chief Prosecutor.

10 MR. KEENAN: Mr. President, the prosecution
11 has already set forth in the written application filed
12 with this Court its request for the consent of the
13 Court to present its case in the Russian language.
14 Additional reason was given in Chambers, in the opinion
15 of the prosecution, of great weight in support of
16 this request.

17 THE PRESIDENT: The Judges have read what
18 was said in Chambers, Mr. Chief Prosecutor.

19 MR. KEENAN: I didn't hear you, Your Honor.

20 THE PRESIDENT: I will have to shout, and I
21 don't care to do it, because you are not using --

22 MR. KEENAN: If you will speak just a
23 little louder I will hear you.

24 THE PRESIDENT: I will speak as I ordinarily
25 do. The reporter might read what I said.

1 (Whereupon, the official court reporter
2 read the President's statement, as follows: "The
3 judges have read what was said in Chambers, Mr.
4 Chief Prosecutor.")

5 MR. KEENAN: I don't think this is working,
6 Mr. President. I hear nothing, and I am unable to
7 discuss anything with the Court when I can't hear
8 what is being said.

9 THE PRESIDENT: Well, if I shout into the
10 microphone it will have a dreadful effect.

11 MR. KEENAN: I didn't hear the last state-
12 ment from the Court.

13 THE PRESIDENT: I don't propose to repeat
14 it, but let's get on with the application.

15 MR. KEENAN: The prosecution has stated all
16 of its reasons in writing and otherwise and has no
17 further comment to make in court at this time.

18 THE PRESIDENT: Mr. Cunningham.

19 MR. CUNNINGHAM: If the Tribunal please,
20 I would like to have the record show that I speak as
21 an individual counsel on this matter, rather than any
22 attempt to represent the defense group, because I
23 have some additional remarks to make concerning the
24 use of Russian language.

25 When the Tribunal originally decided the

1 French issue it declared rightly, I believe, that
2 these proceedings should be conducted in English and
3 Japanese. The ruling was objected to by the French
4 prosecution, causing a reconsideration of the ques-
5 tion to the point that further argument was allowed.
6 After considerable deliberation, this Tribunal an-
7 nounced that the present phase of the case may be pre-
8 sented in French under conditions. The whole ex-
9 perience has proven that the trial has not only been
10 disrupted but delayed and prolonged. No precedent
11 could have been intended in this proceeding. I be-
12 lieve that none was suggested in the Court's decision.
13 In the absence of a written or announced opinion on
14 this question, we must assume that the decision on the
15 part of the Tribunal to overrule itself was in addi-
16 tion to judicial, involved political considerations.
17 I cannot --

18 THE PRESIDENT: That language is offensive,
19 Mr. Cunningham. You cannot address the Court in those
20 terms and expect to be immune from action by the Court.

21 MR. CUNNINGHAM: I merely want to call at-
22 tention to a few additional observations on this matter.

23 THE PRESIDENT: Before you proceed further
24 I ask you to withdraw that statement that the Court
25 was influenced by political considerations. If I

1 understood you rightly you made that suggestion. You
2 certainly used the word "political."

3 MR. CUNNINGHAM: If this statement is of-
4 fensive to the Tribunal, and I had no intention of
5 it being so, I withdraw the statement.

6 I might add that some of us can understand
7 French and can follow the French discussion, but it
8 would be very difficult for any of the attorneys, and
9 myself particularly, to follow any discussion in
10 Russian. The employment of the Russian language in
11 the procedure of this trial could not have been con-
12 templated under the record. I cannot think that the
13 case was prepared with the thought of using a third
14 language. Let us say that the use of Russian would
15 impede the trial and would prevent the defendants from
16 having a fair trial, as contemplated by the Charter.
17 I believe the fact that the Russian Member of the
18 Tribunal is having the proceedings translated to him
19 during the trial is sufficient deviation from the pro-
20 cedure authorized by the Charter. I urge upon the
21 Tribunal to follow the Charter in this instance and
22 require the prosecution to conform its presentation
23 of the case to the specific wording of it in these two
24 languages, which not only the defendants but the Jap-
25 anese counsel contemplated.

1 THE PRESIDENT: DR. KIYOSE.

2 DR. KIYOSE: We object to the use of the
3 Russian language for the same reason for which we
4 objected to the use of the French language before.

5 THE PRESIDENT: Mr. Logan.

6 MR. LOGAN: If your Honor please, I just
7 want to point out two or three things. The first is
8 that in the application of the able Chief Prosecutor
9 there is no indication in it that there is no one on
10 the staff of the Russian prosecutors who cannot speak
11 English well and I understand there is such a person.

12 THE PRESIDENT: That is a very material
13 consideration. We made it so in the French case. I
14 may state that a majority of the Court thought that
15 the Charter did not or does not exclude a third lan-
16 guage. Of that majority some thought the Court had
17 a discretion in the matter, which was to be exercised,
18 having regard to the terms of the Charter, more par-
19 ticularly that provision of the Charter against delays.
20 Others of the majority thought there was a duty to
21 allow the language of any of the Prosecution Section
22 to be used; that is to say, the language of any of the
23 countries represented on this Court. I think it works
24 out this way, that we must be satisfied that there
25 will be no undue delay in presenting the case in

1 Russian, and that the case for Russia, or for the
2 Soviet I should say, cannot be properly presented in
3 English or Japanese. That is the question of fact
4 facing us this afternoon, and it does not involve any
5 political considerations.

6 MR. LOGAN: Of course, I don't claim it
7 does, your Honor.

8 THE PRESIDENT: There is one thing I regret,
9 Mr. Logan, that so far the transcript does not in-
10 clude the grounds of the application, or the appli-
11 cation. It should.

12 MR. LOGAN: I would like to read it, your
13 Honor. "Application for consent" - -

14 THE PRESIDENT: It would be sufficient to
15 read the grounds, Mr. Logan.

16 MR. LOGAN: (Reading) "This request is
17 made because of the reasons set forth herein.

18 "(1) The opening statement and all com-
19 ments on the evidence presented to the Tribunal will
20 be read in the Russian language. They will be written
21 and translated into English and Japanese beforehand.
22 The respective texts will be served on the interpreters
23 in good time. This will insure the simultaneous trans-
24 lation into English and Japanese through the IBM system.

25 "(2) We suggest that the documents should

1 be read in the same order." Under (2) there is a
2 note: "The system of reading documents accepted in
3 the French phase of the case, namely, their reading
4 in English, with the French prosecutor making com-
5 ments in the French language, should not be used
6 during the Soviet phase because of the following
7 considerations:

8 "(a) The Soviet prosecution quote lengthy
9 documents only on rare occasions. In most cases they
10 quote only short excerpts from these documents im-
11 mediately relevant to the points in issue. If the
12 system applied in the French phase were used in the
13 Soviet phase too, then it would mean that the at-
14 torney presenting evidence would have to stop very
15 frequently to give the interpreter an opportunity
16 of reading two or three lines and then to proceed
17 again.

18 "(b) Members of the Tribunal would have either
19 to change the channels of the IBM system, or alternately
20 to put on and take off the earphones, depending on
21 which language would be used by the person at the
22 lectern.

23 "(3) The examination of one Russian wit-
24 ness is proposed to be carried out in the Russian
25 language, with subsequent translation of questions and

1 answers simultaneously into Japanese and English.

2 "(4) No direct examination of Japanese
3 witnesses is intended to take place. This will be
4 replaced by the reading of affidavits, which will be
5 done in the same way as the reading of documents in
6 general. See above.

7 "(5) The President's remarks and the ob-
8 jections of the defense should be translated into
9 Russian. Accordingly, the prosecutor's reply to the
10 objections of the defense and the prosecutor's ex-
11 planations to the President's remarks would have to
12 be translated into English and Japanese simultaneously."

13 From this it is apparent, your Honor, that
14 this phase intends to go a good deal further than
15 what the French phase did, particularly with respect
16 to examination of witnesses, which would delay the
17 trial even more than what has been done in the French
18 phase.

19 The second comment which I intended to make
20 when I stepped up here, your Honor, was with respect
21 to the word "conducted" in Section 3, Article IX, sub-
22 division b of the Charter, and I think that that word
23 should be given its common usage, and, if I am not
24 mistaken, I am quite sure the Court, your Honor, in in-
25 troducing the subject this afternoon said, and I wrote

1 it down here, "we shall deal with the application of
2 the Russian prosecution to conduct its phase in the
3 Russian language." And if my earphones did not de-
4 ceive me, I am quite sure that Mr. Keenan used the
5 same words immediately after your Honor, and con-
6 sequently I think that word "conducted" means exactly
7 what it says; that when we are standing here conducting
8 a case we are conducting it, and the Charter says it
9 must be conducted in the English language and the
10 language of the accused.

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1 THE PRESIDENT: Mr. Levin.

2 MR. LEVIN: Mr. President: The Chief Prose-
3 cutor made some statement with reference to an argu-
4 ment that he made this morning before the President
5 in Chambers. While these proceedings are now a part
6 of the record, I assume that that argument is not
7 available where the matter is being heard by the entire
8 Tribunal. As suggested by my colleague, Major Furness,
9 in open court I should like to state further my slight
10 disagreement with my colleague, Mr. Cunningham, with
11 reference to some of the defense counsel understanding
12 French or Russian. It hardly needs any argument to
13 state that that is not the problem, because the posi-
14 tion which we have taken, which I presented the other
15 day, is on the basis of the Charter and the rulings
16 of the Court, that the trial should be primarily con-
17 ducted in English excepting as the Court has made a
18 ruling in the French case.

19 THE PRESIDENT: The grounds of the application
20 do not disclose why it is necessary to have these
21 proceedings conducted in Russian. There is no sug-
22 gestion that English is not available to the Russian
23 prosecution, or Japanese.

24 I should like to know what the Chief Prose-
25 cutor has to say about that, if he has anything to say.

1 MR. KEENAN: Mr. President, it is now clear
2 that it is the view of the majority of this Court that
3 the Charter does permit the use of languages other
4 than English and Japanese in presenting the prosecution.

5 THE PRESIDENT: Where that is required in the
6 interest of justice and of an expeditious trial and is
7 not contrary to an expeditious trial, or does not
8 preclude an expeditious trial. The interests of
9 justice are always paramount. A fair trial must be
10 given.

11 MR. KEENAN: Relying upon that interpre-
12 tation, plus the fact that the powers and authority
13 that created this Court stipulated with the Russian
14 Government that in this trial questions could be
15 asked, the Court could be addressed, in the Russian
16 language as well as English and Japanese--

17 THE PRESIDENT: The only question is, does
18 the Charter permit it?

19 MR. KEENAN: I had not completed my statement,
20 Mr. President.

21 Such fact having been transmitted, such
22 information, to the President before these hearings
23 in Court today, the prosecution has planned this part
24 of the presentation in the Russian language.

25 THE PRESIDENT: You told me in chambers today

1 what you have told me now, and my answer was exactly
2 the same as it is now: Only the Charter is taken into
3 consideration in these matters, not any arrangement
4 between the governments. My colleagues have before
5 them a record of the proceedings in Chambers.

6 MR. KEENAN: That, Mr. President, I was bring-
7 ing out as the reason why the Chief of Prosecution
8 consented and planned many, many weeks past to have
9 this case prepared for presentation in the Russian
10 language. Now, Mr. President, with great respect,
11 whether that was an error, that decision, on the part
12 of the Chief of Counsel -- and he believes not -- it
13 is a fact facing us today that we want to place before
14 the Court with reference to the delay in the presen-
15 tation of this prosecution in the Russian language;
16 the permission to so do or its refusal would accelerate
17 or retard the speedy trial for which these accused so
18 earnestly and so justly plead.

19 THE PRESIDENT: I do not think for a second
20 any Member of the Court thinks the use of Russian
21 would preclude a fair trial. But as regards those who
22 think they have a discretion, well, they want to be
23 satisfied that undue delays will not occur as the result
24 of the use of Russian. In other words, they want to
25 be sure they carry out the terms of the Charter.

1 MR. KEENAN: I think that is quite clear. It
2 is well understood at this time. But, respectfully --
3 I do not understand these lights, your Honor. They
4 keep bobbing on and off like a storm. I would like
5 the opportunity to finish the sentence.

6 This morning was the first time that any
7 announcement was made as to the reasons for the Court's
8 decision on the previous application, so we were not
9 prepared to address ourselves to the precise points
10 before we knew what they were as announced in the Court's
11 opinion in Chambers, which has been reiterated in Court
12 today.

13 The suggestion was made that there might be
14 delay prejudicing the accused when there is a Russian
15 witness on the stand unless we ask him the question
16 first in English and have it translated in Russian to
17 him and then back from Russian into English, instead
18 of asking him the question in Russian by Russian
19 counsel in the first instance.

20 As to the two points, precise points raised,
21 first, whether there is anyone in the Russian section
22 that speaks English. The answer is yes, Dr. Golunsky
23 speaks it very fluently. But the case itself is of
24 such length and has been prepared in such detail that
25 he feels that it is necessary for him to have the

1 assistance of two others -- four others of his own
2 staff, associates, who do not speak English. He has
3 stated to me, Mr. President, some time past that that,
4 in his opinion, is the way in which the matter can be
5 more speedily presented to the Court than if he attempted
6 to do it alone.

7 And, secondly, great preparation has been made
8 by way of complying fully with the requirements of
9 having the documents processed, ready for distribution,
10 passed to opposing counsel, to the Court and to inter-
11 preters, and we feel there will be no undue delay or
12 no great delay in the presentation.

13 THE PRESIDENT: How long will it take to put
14 the case?

15 MR. KEENAN: As a final word in summation of
16 the facts, at this stage with the great amount of work
17 that has been carried on in the fashion outlined, we
18 would have to ask for a postponement of some considerable
19 period of time unless we were going to go on out of
20 order, and even then I do not believe that we will be
21 able to have it completed within as short a period of
22 for the Court.

23 THE PRESIDENT: How long do you think it will
24 take to put the case in Russian, Mr. Chief Prosecutor?

25 MR. KEENAN: Past experience has taught me

1 assistance of two others -- four others of his own
2 staff, associates, who do not speak English. He has
3 stated to me, Mr. President, some time past that that,
4 in his opinion, is the way in which the matter can be
5 more speedily presented to the Court than if he attempted
6 to do it alone.

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18 would have to ask for a postponement of some considerable
19 period of time unless we were going to go on out of
20 order, and even then I do not believe that we will be
21 able to have it completed within as short a period of
22 for the Court.

23 THE PRESIDENT: How long do you think it will
24 take to put the case in Russian, Mr. Chief Prosecutor?

25 MR. KEENAN: Past experience has taught me

1 to be somewhat conservative in any estimate of what
2 happens in a trial with so many counsel and so many
3 issues coming up, but I would say from ten days to
4 two weeks.

5 THE PRESIDENT: Do you know how many days
6 would be saved if you did not use Russian?

7 THE KEENAN: I think there would be very
8 little difference, in the long run, between using the
9 English only and using the Russian as suggested with
10 the plans that were made and the number of documents
11 involved; very little difference.

12 THE PRESIDENT: Will there be many documents?

13 MR. KEENAN: Yes. There will be 180 docu-
14 ments, Mr. President.

15 THE PRESIDENT: It seems to be more than a
16 fortnight's work, but--

17 MR. KEENAN: That would depend, Mr. President,
18 on the size of the documents and the discretion of
19 the learned counsel in determining how much of it
20 would be read. However, I think that the application
21 which has been read discloses that there is just one
22 Russian witness and three or four Japanese witnesses.

23 THE PRESIDENT: Will the Russian be a lengthy
24 witness?

25 MR. KEENAN: I am informed that there will be

1 not very much direct examination; about an hour, is
2 the suggestion. And it takes a wiser, more experienced
3 man than myself to forecast the length of the cross-
4 examination.

5 If there is any further information I could
6 give the Court, I would be very glad to give it now
7 or supplement it by memorandum or whatever way the
8 Court would like to be informed.

9 THE PRESIDENT: Mr. Logan.

10 MR. LOGAN: I would like to point out one
11 thing with respect to what the Chief Prosecutor has
12 just said which I think is of importance to the accused.

13 When the question is addressed to a witness
14 in the Russian language, it is then translated into
15 Japanese and English. But if the witness understands
16 Russian, he will answer that question in Russian;
17 therefore, he will not be answering the question which
18 the accused understand in either English or Japanese.
19 He will be answering the question in Russian. And
20 with the difficulties of language and translations
21 involved, it may make considerable difference in the
22 testimony.

23 THE PRESIDENT: Dr. KIYOSE.

24 DR. KIYOSE: On listening to the Chief of
25 Counsel, I understand that in spite of the fact that

1 permission has not yet been granted to use the Russian
2 language in this case, he has already completed
3 preparations for conducting the case in Russian. Not
4 only this, in spite of the existence of the Charter,
5 he has also explained that an arrangement has been
6 made between governments whereby the use of the Russian
7 language in asking questions would be permitted.

8 I was greatly relieved to hear the President
9 reply that the Charter would be the only consideration
10 in the minds of the Tribunal, and that agreements
11 between governments would not enter the picture. I
12 felt somewhat relieved. But I earnestly hope that in
13 a court no considerations will be given to promises
14 between governments of a political nature, and that
15 the only consideration given will be to the interests
16 of justice and a fair trial.

17 THE PRESIDENT: We do not want to hear any-
18 thing more along those lines. You are not helping us.
19 Do not repeat just what is said here from the bench.

20 DR. KIYOSE: I hope that by the use of
21 English and Japanese alone a fair trial will be
22 assured.
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1 MR. KEENAN: Mr. President, inasmuch as
2 the matter has been discussed in open court, I think
3 that the record should be made clear in view of the
4 last speaker's remarks, in this respect: That the
5 agreement that I referred to was made with the
6 Russian Government before this Court came into existence.

7 THE PRESIDENT: We will adjourn to consider
8 the matter.

9 (Whereupon, at 1431, a recess was
10 taken until 1532, after which the proceedings
11 were resumed as follows:)

12 MARSHAL OF THE COURT: The Tribunal is
13 now resumed.

14 THE PRESIDENT: The Tribunal by a majority
15 have decided to grant the application with the
16 exception of paragraph 5, which reads: "The President's
17 remarks and the objections of the Defense should be
18 translated into Russian. Accordingly, the Prosecutor's
19 replies to the objections of the Defense and the
20 Prosecutor's explanations to the President's remarks
21 would have to be translated into English and Japanese
22 simultaneously." We do not permit the use of Russian
23 in respect of those matters.

24 Is there anything that is not clear?

25 (No response)

1 We will adjourn now until half past
2 nine on Monday morning.

3 (Whereupon, at 1533 an adjournment
4 was taken until Monday, October 7, 1946 at
5 0930.)

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