

23 SEPTEMBER 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>
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1 Monday, 23 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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20 (English to Japanese and Japanese
21 to English 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 and ready to hear any matter brought before it.

4 THE PRESIDENT: Doctor UZAWA.

5 DOCTOR UZAWA: May I report to the Tribunal
6 that Mr. Nishi HARUHIKO has become chief Japanese
7 counsel for the accused, TOGO.

8 THE PRESIDENT: Mr. Tavenner.

9 MR. TAVENNER: If it please the Tribunal,
10 I offer in evidence documents 2157-B and 2156,
11 excerpts from the interrogation of the accused,
12 OSHIMA, Hiroshi, for the purpose of showing col-
13 laboration between the Japanese army and the German
14 army in 1938 under the Anti-Comintern Pact and OSHIMA's
15 connection therewith.

16 THE PRESIDENT: Admitted on the usual terms.

17 CLERK OF THE COURT: Prosecution's document
18 2157-B will receive exhibit No. 487, and document
19 2156 will receive exhibit No. 488.

20 (Whereupon, prosecution's documents
21 No. 487 and 488 were received in evidence.)

22 MR. TAVENNER: I will read exhibit 487.

23 "Q. You have told us about the secret pact
24 and I think you have described it pretty well to us -
25 that was signed between Japan and Germany at the time

1 the Anti-Comintern Pact was entered into. Now, I am
2 wondering if there were any other secret understand-
3 ings you have not told us about that were entered
4 into between Japan and Germany at or about the same
5 time.

6 "A. Not as treaties, but on this point
7 I would like to tell you some things and if you have
8 any specific questions, please interject them. In
9 1936, as I stated, the secret pact and the Anti-
10 Comintern Pact were consummated. Following this,
11 while there were no secret pacts in 1937, the German
12 Army and the Japanese Army agreed to furnish each
13 other with intelligence about the Russian military.
14 In this regard it was decided to intensify the use
15 of White Russians who had already been used quite a
16 bit and had been contacted in such spots as Warsaw
17 and Paris. There was no written agreement about this-
18 I believe it was in September or October 1938 - that
19 these discussions came about. With the signing of
20 the Russo-German non-aggression pact there was a
21 temporary cessation of all such activities. These
22 matters were not binding agreements, but more in the
23 form of memoranda."

24 Exhibit 488. (Reading):

25 "Q. Now, will you tell us how this agreement

1 came into being? Who suggested it and who handled
2 the negotiations for it?

3 "A. The Japanese military had previously
4 been using White Russians in Warsaw to gather Russian
5 intelligence and following the signing of the Anti-
6 Comintern Pact the Russian Section of the General
7 Staff in Tokyo thought that it would be a good idea
8 to further the exchange of information in regard to
9 the Soviet Union. I received orders from the General
10 Staff to approach the Germans and did so. Actual
11 exchange of information was handled by Lt. Col. USUI
12 of my staff.

13 "Q. After you received instructions to
14 approach the Germans relative to this, whom did you
15 speak to?

16 "A. Keitel, at that time Lieutenant General.

17 "Q. After the negotiations had been con-
18 cluded and this agreement had been reached, what
19 type of organization was set up to handle these
20 activities?

21 "A. There were many White Russians around
22 Berlin at the time who were willing to sell informa-
23 tion and it was simply decided to give them money
24 and procure this information. We were using a
25

1 Russian from the Caucasus by the name of Bamard (?)
2 as one of the main sources of information.

3 "Q. I take it then that these activities
4 were conducted out of your office in Berlin?

5 "A. Yes, except that USUI because he was
6 doing work of this sort, while under me, operated
7 independently.

8 "Q. He operated under your supervision,
9 did he not?

10 "A. Yes. However, his job was to gather
11 intelligence only and to communicate with the
12 Russian Division of General Staff.

13 "Q. Those communications would also go
14 through you as the Military Attache?

15 "A. They would go through my office.

16 "Q. Did you hold any property in Germany?

17 "A. No.

18 "Q. Did you ever have a house or piece of
19 real estate in Falkensee?

20 "A. I understand now what you are talking
21 about. In order to carry on Anti-Soviet propaganda,
22 at one time I negotiated for the purchase of a place
23 where this work could be carried on. This place
24 was not in my name, I believe. However, we did have
25 it.

"Q. While this property was not in your

1 own name, did you personally own it?

2 "A. As I said, it was not in my name; the
3 money came from my office.

4 "Q. What type of work did you conduct from
5 this place in Falkensee?

6 "A. They were printing up the propaganda
7 at this place.

8 "Q. But you do know that you had a number
9 of White Russians and they printed propaganda leaf-
10 lets. Now, tell us what they did with them.

11 "A. These leaflets were given to Bamard (?),
12 who by some means or other tried to get them into
13 Russia.

14 "Q. General, do you know anything about a
15 Japanese officer that had worked in Afghanistan?

16 "A. Yes.

17 "Q. He was expelled because of suspicion
18 that he had attempted to overthrow the Afghanistan
19 Government, wasn't he?

20 "A. I believe the Japanese officer became
21 friendly with an Afghanistan 'garrison commander'
22 and suggested to him that they carry on Anti-Russian
23 activities. This man evidently passed on this word to
24 the Afghanistan Government and suggested that they
25 get rid of the Japanese officer before they were
suspected of doing such things.

1 "Q. That man was working under your direc-
2 tion or out of your office in Berlin, was he not?

3 "A. No. I had no connection with him.

4 "Q. But you intended to send someone there
5 to take his place after he was expelled, did you not?

6 "A. No."

7 I now offer in evidence prosecution document
8 533, a memorandum of The Reichsfuehrer, H. Himmler,
9 regarding a conference with the accused OSHIMA.

10 THE PRESIDENT: Admitted as before.

11 CLERK OF THE COURT: Prosecution's document
12 No. 533 will receive exhibit No. 489.

13 ("Whereupon, prosecution's exhibit
14 No. 533 was received in evidence.)

15 MR. TAVENNER: I will read it.

16 "Today I visited General OSHIMA. The con-
17 versation ranged over the following subjects:

18 "1) The FUEHRER's speech, which pleased
19 him very much, especially because it had been
20 spiritually warranted in all its features.

21 "2) We discussed the conclusion of the
22 treaty, by means of which the triangle Germany-
23 Italy-Japan would assume an even firmer shape. He
24 also told me that together with German counter-
25 espionage (ABWEHR) he was undertaking long range
work of disintegration in Russia, emanating from the
CAUCASUS and the UKRAINE. However, this organization

1 was only to become effective in the event of war.

2 "3) Furthermore, up to now he had succeeded
3 in sending ten Russians with bombs across the
4 Caucasian frontier. These Russians had the order to
5 kill STALIN. A number of additional Russians, whom
6 he had also sent across, had been shot at the frontier.

7 "4) We then discussed the Mohammedan move-
8 ment. He said that a Japanese officer had worked
9 in AFGHANISTAN but then had been expelled because
10 he was suspected of wanting to overthrow the Afghan
11 government. I told him that I had a police officer
12 there, and that the two could work together very
13 well once he again had a man there.

14 "5) He told me confidentially that he had
15 bought a piece of real estate at FALKENSEE in the
16 name of a middleman. Six Russians were employed
17 there writing and painting pamphlets which were
18 then conveyed from Poland into Russia by means of
19 small balloons when the wind was favorable. He had
20 received news and proof from Russia that they had
21 arrived well and obviously distributed among the
22 people diligently.

23 "6) He had also bought a motor boat in
24 order to take leaflets from Rumania to the Crimea
25 via the Black Sea. However, this had met with no
success in autumn; but he would repeat it during the

1 summer.

2 "Berlin 31 January 1939.

3 "THE REICHSFUEHRER SS:

4 "/s/ H. HIMMLER."

5 The next subdivision of this phase of the
6 case relating to the Anti-Comintern Pact is the
7 extension of the Anti-Comintern Pact. I offer in
8 evidence prosecution document 2157, a short excerpt
9 from the interrogation of the accused OSHIMA.

10 THE PRESIDENT: Admitted as before.

11 CLERK OF THE COURT: Prosecution document
12 No. 2157 will receive exhibit No. 490.

13 (Whereupon, prosecution's exhibit
14 No. 490 was received in evidence.)

15 MR. TAVENNER: (Reading):

16 "Q. Do you know the circumstances in-
17 cident to Italy becoming a party to the Anti-Comintern
18 Pact. By that I want to know who suggested it and to
19 whom?

20 "A. I am not sure of what the circumstances
21 were, but I believe that there were talks between
22 Italy and Germany which brought it about.

23 "By this time it had gone out of my hands
24 and I can only say that I recollect that there was
25 talk from the German side of recruiting Italy in

1 the pact."

2 MR. SHIMANOUCI: I am SHIMANOUCI, counsel
3 for the accused OSHIMA.

4 By this document the accused OSHIMA says
5 that he is not familiar with the entry of Italy into
6 the Anti-Comintern Pact. The only statement of fact
7 in this document is that at the end of the inter-
8 rogatory in which the accused says, with respect to
9 Italy's participation in the Anti-Comintern Pact,
10 that "By this time it had gone out of my hands and
11 I can only say that I recollect that there was talk
12 from the German side of recruiting Italy in the pact."
13 By this it is not known from what German source this
14 particular proposal was made, whether it was made
15 to the Foreign Minister of Japan, to the Japanese
16 Ambassador in Berlin, or to OSHIMA as Military
17 Attache of the Japanese Embassy in Berlin.

18 THE PRESIDENT: You are not entitled at this
19 stage to comment on the document in that way. You
20 may take an objection to the evidence or you may
21 point out an error, but it is not yet your turn to
22 comment on the effect of the prosecution's evidence.
23 I am unable to hear you further.

24 MR. SHIMANOUCI: I understand.

25 THE PRESIDENT: Mr. Tavenner.

MR. TAVENNER: A copy of prosecution document

1 1097 is now tendered in evidence. It is a record
2 of the minutes of the Privy Council meeting of 22
3 February 1939 and is presented for the purpose of
4 showing a quantitative and qualitative strengthening
5 of the Anti-Comintern Pact. This document was pro-
6 cessed for introduction in the Manchurian phase of
7 the case and the copies in English and Japanese were
8 served upon the accused or their counsel as provided
9 by the rules of the Tribunal. The original document,
10 if returned to the document section, cannot be found
11 although a diligent search has been made. In the
12 light of this situation and under what is commonly
13 called the "best evidence rule," it is requested that
14 the Tribunal permit the introduction of a processed
15 copy in lieu of the original which has apparently
16 been lost.

17 THE PRESIDENT: Have you a certificate
18 from a person who sighted the original and can say
19 what it contained?

20 MR. TAVENNER: If it please the Tribunal,
21 I have a certificate from Mr. Danly of the fact of
22 its loss. I have a certificate of the translator
23 who translated the original document. I have also
24 a certificate of the person who handled the processing
25 of that original document, all three of which set
forth the facts that I have stated.

THE PRESIDENT: Admitted on the usual terms.

1 Was this document ever in evidence before us?

2 MR. TAVENNER: No, sir. It was distributed
3 for the purpose of introduction in evidence but was
4 not used at that time.

5 CLERK OF THE COURT: Prosecution's document
6 No. 1097 will receive exhibit No. 491.

7 (Whereupon, prosecution's exhibit
8 No. 491 was received in evidence.)

9 MR. USAMI: I am counsel for the accused
10 HIRANUMA. I should like to inquire of the prosecu-
11 tion whether it intends to present the entire minutes
12 or only a part of those minutes of the present docu-
13 ment?

14 MR. TAVENNER: The entire document is being
15 presented in evidence, from which I am reading only
16 excerpts.

17 MR. USAMI: I should like to say, sir, that
18 if the document has been lost and the prosecution
19 intends to tender this in evidence, it appears to me
20 that when the defense prepares its case and should
21 present this document, it would not have anything to
22 introduce out of this document; and if this part is
23 introduced by the prosecution the defense will have
24 no place -- will have nothing to introduce or read as
25 evidence.

THE PRESIDENT: The defense will be at

1 liberty to make use of the document already tendered.
2 If by some good fortune they get the original, they
3 may tender the original and will be expected to do so.

4 MR. USAMI: Thank you, sir.
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1 MR. TAVENNER: Before reading this document
2 in evidence, I desire to introduce another document
3 which I, through error, omitted to introduce. I
4 present prosecution's document 870 in evidence. It
5 is a record of the proceedings of the Privy Council
6 Session.

7 THE PRESIDENT. On the "Conclusion of the
8 Protocol between Japan, Italy and Germany", is that
9 it?

10 MR. TAVENNER: Yes.

11 THE PRESIDENT: Admitted on the usual terms.

12 CLERK OF THE COURT: Prosecution's document
13 No. 870 will receive exhibit No. 492.

14 (Whereupon, prosecution's exhibit
15 No. 492 was received in evidence.)

16 MR. TAVENNER: I will read the caption, a
17 paragraph from page 3, pages 3 and 4, and the last
18 paragraph in the document.

19 THE PRESIDENT: You are now reading, I take
20 it, from exhibit No. 491.

21 MR. TAVENNER: 492.

22 THE PRESIDENT: 492.

23 MR. TAVENNER: I will read from prosecution's
24 document 870, which is exhibit 492.

25 (Reading): "RECORD OF THE PROCEEDINGS OF THE

1 PRIVY COUNCIL SESSION.

2 "Subject: Conclusion of the Protocol between
3 Japan, Italy and Germany.

4 "The members who were present:

5 "HIRANUMA, President.

6 "HIROTA, Foreign Minister.

7 "KAYA, Finance Minister."

8 I will now read a paragraph on page 3 of
9 that document.

10 (Reading): "But immediately after the con-
11 clusion of Japan-Germany Treaty, the Italian Govern-
12 ment brought forward to the Japanese Government to
13 the effect she too hoped to conclude similar treaty
14 between Japan and Italy. The formation of such treaty
15 between Japan, Germany and Italy was as anticipated
16 under Article 2 of the above-mentioned Japan-Germany
17 Treaty and the Imperial Government, thinking that it
18 would not only be advantageous to strengthen the pre-
19 ventive measures against Communist International but
20 also would bring about considerable spiritual results
21 on politics due to the promotion of good-will between
22 the three nations and hence and in accordance with
23 the significance of the Article 2 of the aforesaid
24 Japan-Germany Treaty, the authorities of three nations
25 repeated the negotiations and came to the understanding

1 to let Italy join the said Treaty and it was agreed
2 that in matter of form the new Treaty between Japan,
3 Germany and Italy be concluded separately from the
4 already concluded Japan-Germany Treaty. In such a
5 way we came to see the definite formation of this
6 Protocol. Therefore, should Italy recede from the
7 Protocol, the Japan-Germany Treaty would not be
8 affected whatsoever."

9 I will now read a paragraph on page 4 of
10 this document.

11 (Reading): "It appears to me that the
12 conclusion of this new treaty between Japan, Germany
13 and Italy would not only contribute to the strengthening
14 of the joint preventive measures against the destructive
15 operations of Communist International but would also
16 give birth to some spiritual effects which would con-
17 tribute to the international politics by cooperation
18 of three nations. Therefore, when the conclusion of
19 this Treaty was viewed in the light of the present
20 situation, it could be said as the most timely measure
21 and its provisions too may be deemed as having no
22 grounds for objection and it is my earnest desire that
23 by conclusion of this Treaty the maintaining of order
24 in countries concerned would be carried out to our
25 satisfaction by exchanging information on activities

1 of Communist International and by taking other
2 appropriate measures. Thus I end my report on in-
3 vestigation done on the subject."

4 The concluding paragraph is merely a state-
5 ment by President HIRANUMA showing the adoption or
6 approval of the protocol.

7 The Tribunal's attention is called to pros-
8 ecution's document 921.

9 THE PRESIDENT: Mr. Logan.

10 MR. LOGAN: If the Tribunal please, I would
11 like to call your attention to a document, 870,
12 prosecution's exhibit 492 which was just read. On
13 page 2, among the members who are absent at that
14 meeting was Marquis KIDO.

15 MR. TAVENNER: The Tribunal's attention
16 is called to prosecution's document 921, in evidence
17 as exhibit No. 36. It is the protocol admitting Italy
18 to the Anti-Comintern Pact. As the material provisions
19 are virtually the same as the original Anti-Comintern
20 Pact, I will not consume the Tribunal's time in reading
21 it.

22 THE PRESIDENT: You might quote the date also.
23 Quote the date also for the purposes of the record.

24 MR. TAVENNER: The date of the protocol is
25 6 November 1937.

1 Mr. McKinney will now read in evidence pros-
2 euction's document 1097 which was introduced as
3 exhibit 491.

4 THE PRESIDENT: Mr. McKinney.

5 MR. McKINNEY: (Reading): "MINUTES OF THE
6 PRIVY COUNCIL MEETING.

7 "Protocols regarding the participation of
8 Hungary and Manchuria in Anti-Comintern Pact.

9 "Opened at 10:00 AM on Feb. 22, 1939 in the
10 presence of H. M. the Emperor.

11 "Attended by:

12 "Ministers of State: .

13 "HIRANUMA, Premier .

14 "ITAGAKI, War Minister.

15 "No. 26 (IZHIZUKA) I heartily endorse this
16 bill --"

17 THE PRESIDENT: Where have you jumped to now,
18 what page?

19 MR. McKINNEY: "No. 26" in the middle of
20 the page on 4.

21 (Reading): "I heartily endorse this bill, but
22 I wish to hear some explanation of the government
23 regarding this plan. I think it is opportune that
24 we have Manchukuo and Hungary at this time, and the
25 other countries in future, take part in this pact and

1 strengthen more than ever the attainment of the
2 anti-Comintern measures through close cooperation
3 with these countries. But do you have any intentions
4 to strengthen qualitatively the substance of this
5 agreement, besides increasing the number of partici-
6 pating countries in this anti-Comintern pact? Next,
7 here is a secret pact annexed to the anti-Comintern
8 pact concluded between Japan and Germany. Italy did
9 not take part in this secret pact but now that the
10 international situation has changed since then, has
11 Japan urged Italy to take part in this secret pact
12 or has Italy expressed her desire to take part in it?
13 Again, is there no need to consider the conclusion of
14 a secret pact with Hungary and Manchukuo, which borders
15 and is contiguous to the Soviet Union?"

16 I now read "No. 12" which is on page 6 of
17 the document.

18 (Reading): "No. 12 (ARITA): The first point
19 of your interpretation refers to an item concerning
20 the measures for strengthening the anti-Comintern
21 Pact. One of the methods consists in increasing the
22 number of the participating countries. Manchukuo
23 and Hungary are now to participate in the Pact, and
24 shortly some other third power in Europe may also join
25 it.

1 "A second method consists in strengthening
2 the substance of the anti-Comintern Pact. In order
3 to cope with the attitude of the Comintern and of the
4 Soviet Russia, which is at its back, there are not
5 only the mere exchange of information but also means
6 of cooperation in economic and financial relations.
7 Since the government has already made a study and
8 almost decided on its policy regarding these matters,
9 the government expects to shortly begin negotiations
10 with the countries concerned.

11 "Your second question is whether or not
12 Japan has asked Italy to participate in the Secret
13 Pact which exists between Japan and Germany, or
14 whether or not Italy has expressed the desire to
15 participate in it. For the present the government
16 is only considering the above-mentioned strengthening
17 of the substance of the Pact. Neither have we asked
18 Italy to participate in the Secret Pact nor has Italy
19 expressed the desire to participate in it.

20 "You further asked if it is not necessary to
21 conclude secret pacts with Manchukuo and Hungary. The
22 qualitative strengthening of the anti-Comintern Pact
23 can hardly be expected merely from the increase in
24 the number of the participating countries. Since it
25 depends on the close mutual collaboration among the

1 powers having the greatest interest and possessing
2 real strength, I consider there is no need to think
3 about it with respect to the above-mentioned two
4 countries."

5 THE PRESIDENT: "Well, that is on page 5 and
6 not on page 6.

7 MR. McKINNEY: The next I will read will
8 be at the bottom of page 5.

9 (Reading): "No. 26 (ISHIZUKA).

10 "I now understand it generally. The govern-
11 ment is now considering to strengthen the substance
12 of the anti-Comintern Pact. In view of the fact
13 that the Soviet Union aid to Chiang Kai-shek has lately
14 become more and more blunt, I hope this would be
15 carried out speedily and endorse this bill."

16 I will next read "No. 22" which is at the
17 top of the page 6.

18 (Reading): "The participation of Manchukuo
19 and Hungary in the anti-Comintern Pact strengthens
20 quantitatively and I too am in favor of it. May I ask
21 whether Italy, when she joined the pact between Japan
22 and Germany, did not join the secret pact annexed to
23 that pact because she did not know the existence of
24 the secret pact or because she did not want to take
25 part in it although she knew of its existence?

1 "Since it is a very important matter to
2 strengthen qualitatively the anti-Comintern Pact I
3 cannot express at once pro or con on this matter.
4 However, if the government is to take this into
5 consideration and commence negotiations with the
6 countries concerned in the near future, how about
7 taking this opportunity to have Hungary and Manchukuo,
8 which occupy important positions vis-a-vis the Soviet
9 Union, participate in it? May I ask whether only
10 Japan and Germany are to consider the matter of
11 qualitatively strengthening the Pact?

12 "Next, according to this bill, Manchukuo and
13 Hungary are to conclude a pact with Japan, Italy and
14 Germany each, but it appears that there can be no
15 close relations between Manchukuo and Hungary because
16 there is no direct agreement between them. In the
17 report of the Judging Committee, it is stated that,
18 'according to the explanation of the Foreign Ministry
19 authorities, Manchukuo and Hungary will take part in
20 the already existing Anti-Comintern Pact among Japan,
21 Italy and Germany through separate arrangements, as
22 a matter of form, but in consequence of it these five
23 countries will form a **single** body in respect to that
24 Pact.' How can it be so? Or is it intended to have a
25 separate arrangement made between Manchukuo and Hungary?

1 Please clarify.

2 "No. 12 (ARITA)

3 "The first point of your questions is whether
4 Italy when she joined the Pact between Japan and
5 Germany, did not join the secret pact annexed to the
6 Pact because she did not know of the existence of
7 the Pact or because she did not desire to join although
8 she knew of its existence. Since I was not a state
9 minister then I do not know the details of it but I
10 hear that Italy did not join the secret pact because
11 she did not know of its existence. If there is any
12 mistake on this point I shall correct it later.

13 "Regarding your second question which concerns
14 the substance of the anti-Comintern Pact, its
15 strengthening will be planned among Japan, Italy
16 and Germany. We have no thought of including Manchukuo,
17 Hungary and any other countries which may join in the
18 future.

19 "The third point of your questions is whether
20 it is not true that, whereas it is very important for
21 the signatory countries to maintain mutually close
22 relations among themselves in order to attain the
23 anti-Comintern aim, Manchukuo and Hungary cannot maintain
24 close relations between themselves because they have
25 concluded no direct agreement with each other. I

1 believe close relations will be maintained between
2 Manchukuo and Hungary because, as the result of the
3 participation of these two countries in the Japan-
4 German Pact and the protocol attached thereto, and
5 also the anti-Comintern Pact consisting of the proto-
6 col among Japan, Germany and Italy, to which Italy
7 joined as an original signatory power, the five
8 countries have been bound together by the Anti-
9 Comintern Pact.

10 "President (KONOE)

11 "Since there is no other speaker we shall omit
12 the second reading and immediately take a vote.
13 Those persons in favor of this bill please rise.

14 "(All rise)

15 "President (KONOE)

16 "The bill has been passed unanimously. The
17 meeting is adjourned.

18 "The Emperor retired into an inner chamber.

19 "(Adjourned 10:41 AM)

20 "President Prince KONOE, Fumimaro

21 "Chief Secretary MURAKAMI, Kyoichi

22 "Secretary HORIE, Suewo

23 "Secretary TAKATSUJI, Musami

24 THE PRESIDENT: I take it the Court Reporters
25 are going to copy from the exhibit itself because the

1 exhibit so far as read has not been correctly read.
2 The last part of that statement was made by ARITA.

3 Mr. Logan.

4 MR. LOGAN: If the Tribunal please, I call
5 your attention to the document 1097, exhibit 491
6 just read, on page 1 among the absent members was
7 the accused KIDO.

8 THE PRESIDENT: There is no need to point
9 out that, Mr. Logan. We will have it well in mind,
10 and you will emphasize it again, no doubt.

11 MR. McKINNEY: I refer to prosecution's
12 document 870, previously introduced into evidence
13 as exhibit 492, from which I will read an excerpt
14 not read at the time of its introduction.

15 The portion I will read appears on page 5
16 of the document.

17 (Reading): "Councillor SHIMIZU: I would
18 like to know the reasons why Manchukuo could not be
19 allowed to participate in this Anti-Comintern Pact.

20 "Foreign Minister HIROTA: I think that as
21 Manchukuo's diplomacy is carried out with Japan as
22 its center, there is no necessity of letting Manchukuo
23 participate directly in the agreement. It is true
24 that Manchukuo is an independent state, but it will
25 require adequate consideration to let her act

1 internationally. However, as a matter of fact, the
2 application of this Treaty on Japan would naturally
3 result in extending to Manchukuo."

4 "We offer in evidence prosecution's document
5 885 and 1452 which respectively contain the protocols
6 admitting to the Anti-Comintern Pact Manchukuo on
7 24th of February, 1939, and Spain on the 27th of
8 March, 1939. As the material provisions are virtually
9 the same as the original Anti-Comintern Pact, I
10 will not consume the Tribunal's time in reading them.

11 THE PRESIDENT: Admitted on the usual terms.

12 CLERK OF THE COURT: Prosecution's document
13 No. 885 will receive exhibit No. 493, and document
14 1452 will receive exhibit No. 494.

15 MR. CUNNINGHAM: If the Tribunal please, I
16 have in mind --

17 THE PRESIDENT: Mr. Cunningham.

18 MR. CUNNINGHAM: I had in mind objecting to
19 this last document on the grounds that it is an agree-
20 ment between nations and not between individuals and
21 is, therefore, incompetent and irrelevant and immaterial
22 as regards any criminal issues involving the defendants
23 in this particular case.

24 THE PRESIDENT: The question of individual
25 responsibility for acts of state can be determined

1 later. The objection is overruled.

2 ("Whereupon, prosecution's exhibits
3 Nos. 493 and 494 were received in evidence.)

4 THE PRESIDENT: Mr. McKinney.

5 MR. McKINNEY: I offer in evidence prose-
6 cution's document 4017A which relates to the renewal
7 of the Anti-Comintern Pact on the 25th of November,
8 1941. It contains a provision for the admission of
9 new participants. As the other provisions are
10 essentially the same as the original pact, I will
11 not read them.

12 THE PRESIDENT: Admitted on the usual terms.

13 CLERK OF THE COURT: Prosecution's document
14 No. 4017A will receive exhibit No. 495.

15 ("Whereupon, prosecution's exhibit
16 No. 495 was received in evidence.)

17 MR. McKINNEY: Prosecution's document 1204C
18 is presented for introduction into evidence. It is
19 an official announcement of the Board of Information
20 concerning the new participants in the Anti-Comintern
21 Pact and is as follows:

22 THE PRESIDENT: Admitted on the usual terms.

23 CLERK OF THE COURT: Prosecution's document
24 No. 1204C will receive exhibit No. 496.

25 ("Whereupon, prosecution's exhibit

1 No. 496 was received in evidence.)

2 THE PRESIDENT: Mr. Cunningham.

3 MR. CUNNINGHAM: If the Tribunal please, may
4 I have the objection entered on the record to all of
5 these documents pertaining to the agreements between
6 nations so that I will not have to make individual
7 objections to each document?

8 THE PRESIDENT: Under a general ruling made
9 in your absence, Mr. Cunningham, you are fully
10 protected. There is no need to object to each docu-
11 ment. It is understood that you will object to all
12 of these documents in a similar category.

13 Mr. McKinney.

14 Mr. McKinney (Reading):

15 "OFFICIAL ANNOUNCEMENTS CONCERNING FOREIGN
16 RELATIONS

17 "Sixteenth Year of Showa (1941)

18 "Board of Information

19 "LXXXVIII, ANNOUNCEMENT OF THE BOARD OF
20 INFORMATION CONCERNING THE NEW PARTICIPANTS IN THE
21 ANTI-COMINTERN PACT.

22 "November 25, 1941.
23
24
25

1 MR. McKINNEY: (Reading)

2 "In accordance with the procedure for adherence,
3 newly provided in Article 2 of the Protocol concerning
4 the extension of validity of the Anit-Comintern Pact,
5 which was signed and sealed by the Plenipotentiaries
6 of the six countries, namely, Japan, Germany, Italy,
7 Manchoukuo, Hungary and Spain, on the 25th of November,
8 1941; seven countries, namely, China, Rumania, Bulgaria,
9 Finland, Slovakia, Croatia and Denmark, have joined
10 the Pact under today's date (November 25)."

11 THE PRESIDENT: Mr. Tavenner.

12 MR. TAVENNER: The Tribunal's attention is
13 directed to the fact that on 25 November 1941, the
14 date of the renewal of the Anti-Commintern Pact, the
15 accused hereinafter mentioned held certain offices and
16 positions of importance, as shown from the personnel
17 records heretofore introduced in evidence:

18 HOSHINO, Naoki, Chief Secretary of the Cabinet
19 and Councillor of the Planning Board.

20 KAYA, Okinori, Finance Minister.

21 KIMURA, Heitaro, Vice President of War and
22 Councillor of the Planning Board.

23 OSHIMA, Hiroshi, Ambassador to Germany.

24 SHIRATORI, Toshio, Adviser to the Foreign
25 Minister.

1 SHIMADA, Shigetaro, Minister of the Navy.
2 SUZUKI, Teiichi, State Minister and Chief
3 Director of the Cabinet Planning Board.

4 TOGO, Shigenori, dual posts of Foreign
5 Minister and Minister of Overseas Affairs.

6 TOJO, Hideki, concurrently the posts of Prime
7 Minister, War Minister, and Home Minister.

8 The next division of our subject is the Tri-
9 Partite Pact. The subdivision of this heading en-
10 titled "Negotiations for a Tri-Partite Military Alli-
11 ance" will be presented by Mr. G. Osmond Hyde.

12 THE PRESIDENT: Mr. Smith.

13 MR. SMITH: If your Honor please, we move to
14 strike out all the evidence relating to the Anti-
15 Comintern Pact and the extensions of it on the ground
16 it has no probative value and has no tendency to show
17 a War of Aggression.

18 THE PRESIDENT: It is received for whatever
19 probative value it has. You may be able to establish,
20 in due course, that it has no probative value, Mr.
21 Smith, but we cannot determine piecemeal, that is,
22 from day to day, what is the probative value of any
23 piece of evidence. So the motion is refused.

24 MR. HYDE: I offer in evidence prosecution's
25 document 2156D, excerpts from the interrogation of

1 OSHIMA. It is an account by OSHIMA of negotiations
2 for a Tri-Partite military alliance beginning in
3 January, 1938, about the time Germany considered it
4 necessary to re-orient her views toward Japanese-
5 German relations as shown in an earlier part of this
6 phase of the case.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Prosecution's document
9 No. 2156 D will receive exhibit No. 497.

10 (Whereupon, the document above
11 referred to was marked prosecution's exhibit
12 No. 497, and received in evidence.)

13 MR. HYDE: I will now read the exhibit just
14 mentioned. (Reading)

15 "Interrogation of OSHIMA, Hiroshi, 4 February
16 1946, pages 43, 44, and 45:

17 "Q. You may now proceed with your story regarding
18 The Tri-Party Pact.

19 "A. I shall give you the rough overall picture of
20 how this pact came about. Later, if you wish to ques-
21 tion me on specific details, please do so. To start
22 with, I would like to tell you that, as you know, in
23 July 1937, the China incident started. Following this,
24 at one time, you may not be aware, that Japan attempted
25 to use Germany in order to bring this incident to a

1 close. At the time I received orders from the General
2 Staff in Tokyo to try and approach German military
3 leaders and have them in turn approach the German
4 military advisors of Chiang Kai-shek with a view to
5 bringing to a close an incident which was rapidly tak-
6 ing on gargantuan proportions and leading only to a
7 stale-mate. As an initial step, I wish to relate how,
8 I believe it was in January 1938, although I am not
9 certain of the date -- only that it was early in Janu-
10 ary, I called upon Ribbentrop at his villa in Sonnen-
11 burg, to pay my New Year's respects, and at the time
12 he asked me if there was not some way in which Germany
13 and Japan might be brought closer together by means of
14 a treaty or otherwise. I recall that Ribbentrop spent
15 his Christmas Holidays at his villa and my recollection
16 is that I called upon him around the New Year, and I
17 recall passing on the general story of this meeting to
18 General Staff Headquarters in Tokyo. In the same year
19 in June I received a communication from the Division
20 concerned, SHUNINBU, of the General Staff Headquarters,
21 informing me that only in so far as the Division was
22 concerned and not speaking for the General Staff as
23 a whole they approved the furtherance of German-
24 Japanese cooperation. Although I do not remember the
25 details of this communication, I remember that the main

1 point was that in this cooperative movement the thing
2 to be kept uppermost in mind should be an agreement
3 to act in accord in dealing with Soviet Russia. At
4 the beginning of July sometime Ribbentrop was prepar-
5 ing to go to Sonnenburg again for the summer and before
6 he left I saw him at his request and we talked over
7 various matters. At this time without referring to
8 the matter of the communication from Japan -- which had
9 come by courier -- I asked him what he thought of an
10 agreement of some sort promising to consult with each
11 other before any action was taken in case of an attack
12 by the U.S.S.R. Ribbentrop asked me to let him have
13 time to think it over -- and we parted for the moment.
14 As the next step in these talks I recall that a few
15 days later Ribbentrop returned from Sonnenburg for the
16 express purpose of talking to me. To the best of my
17 knowledge the following is more or less what he said
18 on this occasion: (1) that what he said was not based
19 on talks with Hitler or any other official, and (2)
20 that he felt that Germany would not particularly approve
21 or like a treaty agreeing to consult only, as this
22 was somewhat one-sided and not strong enough, and (3)
23 that he suggested a mutual aid treaty instead aimed
24 not only at the U.S.S.R., but all countries. In other
25 words, what he meant was that a German-Japanese pact

1 would, if strong enough, hope to preserve world peace.
2 Germany was particularly fond of statements of this
3 sort at the time.

4 "Q At this time in what capacity was Ribbentrop
5 in the German Government -- the Foreign Minister or
6 an official in the office of the Foreign Minister?

7 "A He was Foreign Minister at the time and had
8 been for several months. I told Ribbentrop that I
9 thought it would be extremely difficult for Japan to
10 agree to expand her objectives to a place where she
11 would agree to a mutual aid pact aimed at the world
12 in general, as she was only prepared to act against
13 Russia. Ribbentrop in return stated that he did not
14 wish Japan to do anything that was outside her power
15 to do, but that a strong pact was vitally necessary for
16 the preservation of peace and hence urged me further
17 upon this point. Ribbentrop then asked me to find out
18 how the Japanese Army would feel about such a treaty,
19 and secondly, requested me to maintain absolute secur-
20 ity -- in this regard there had been some leaks in the
21 previous negotiations leading up to the Anti-Comintern
22 Pact -- and to not communicate by wire or wireless
23 with Japan, but to send someone back. Because of this
24 I communicated with the General Staff, simply to get
25 its O.K., and having received it sometime around the

1 end of July, I dispatched Major General KASAHARA to
2 Japan by air. This was not all decided at one meet-
3 ing. It actually was during two or three meetings.

4 "Interrogation off 6 February 1946, pages 26,
5 and 47."

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

8 ("hereupon, at 1045, a recess was
9 taken until 1100, after which the proceedings
10 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. Hyde.

4 MR. HYDE: (Reading)

5 "Q General, you may proceed with the recital of the
6 story of the events relative to the Tri-Party Pact.

7 "A I shall give you a general picture of the
8 events leading up to the Tri-Party Pact, and if you have
9 any questions during my recital, or afterwards, please
10 interject.

11 "Q General, do you remember the point at which
12 you left off when we met last time?

13 "A Yes.

14 "Q You may proceed from that point.

15 "A Major General KASAHARA arrived back in Japan
16 in August 1938, after having flown as far as Singapore
17 and proceeded from there by ship. Upon his return he
18 spoke to the General Staff, who in turn spoke of the
19 matter to the then Foreign Minister, UGAKI. The Foreign
20 Minister in turn discussed the matter with the five
21 Cabinet members committee. This was a committee among
22 the Cabinet ministers which discussed particularly
23 important matters. A telegram was then received by me
24 from the General Staff stating that they were more or
25 less in accord and that the five-man committee was also

1 agreeable to the suggestion.

2 "Q General, can you tell us what ministers these
3 five were?

4 "A This is simply from my memory and I am not
5 absolutely certain, but I think the five-man committee
6 consisted of the Prime Minister, KONOYE; the Foreign
7 Minister, UGAKI; the Finance Minister, IKEDA; the War
8 Minister, ITAGAKI; and the Navy Minister, YONAI.

9 "A My reason for sending KASAHARA to Japan was
10 simply to get the views of the Army, but as I discovered
11 later the Army at this time was particularly desirous
12 of bringing to a close the China incident and they felt
13 that this would be a step in that direction so that they
14 took it upon themselves to speak to the Foreign Minister,
15 who in turn spoke to the committee of five.

16 "(And on page 49):

17 "Q If I understood you correctly, General, the
18 reply that you received from Tokyo came to you from
19 the Chief of Staff:

20 "A It always comes from the Chief of Staff.

21 "Q You may continue.

22 "A While there were other telegrams and communi-
23 cations in general, what they said was that they would
24 be willing to conclude a pact in which mutual aid was
25 promised in case one of the signatories was a victim

1 of unprovoked aggression. However, Japan wished to
2 have the pact aimed at Russia primarily, and all other
3 countries would be secondary to this.

4 "(And on pages 50, 51, 52, and 53):

5 "A I began my official duties as Ambassador about
6 the end of October 1938. Following discussions with
7 RIBBENTROP and GAUS, the head of the Legal Department
8 of the German Foreign Office, and having decided upon
9 the general outline of the treaty I sent an official
10 communication to the Japanese Foreign Office giving in
11 it the aforementioned outline.

12 "Q General, according to my information you were
13 named Ambassador on 8 October 1938.

14 "A Yes.

15 "Q And you assumed your duties immediately?

16 "A I stated I began my official duties towards
17 the end of October because it is Japan's protocol not
18 to take up the official duties until the former
19 Ambassador leaves for his next post.

20 "Q General, I suppose at the time you were named
21 Ambassador the negotiations then with respect to this
22 proposed treaty that had theretofore been carried on
23 through you as Military Attache had now reached the
24 stage where the Foreign Office in Tokyo was carrying on
25 the negotiations through and with you in your capacity

1 as Ambassador?

2 "A Yes, as soon as I became Ambassador.

3 "Q You may continue.

4 "A The first answer from the Foreign Office stated
5 that the Foreign Office and the Government were in agree-
6 ment regarding a treaty of this sort which would help
7 to conclude the China incident and (1) to clarify the
8 Russian situation so that troops could be deployed else-
9 where, (2) to strengthen Japan's international position,
10 and (3) to receive technological and economic aid from
11 Germany. However, regarding the actual wording of the
12 treaty they stated that they were in process of studying
13 it. That was the first answer.

14 "Q What did the deployment of troops elsewhere
15 have to do with the concluding of the China incident?

16 "A If the problems along the Siberian border were
17 settled, then those troops, if necessary, could be used
18 elsewhere.

19 "Q By that time you mean this, General, that troops
20 that had theretofore been deployed along the Russian
21 border could now be withdrawn from that border and used
22 against China?

23 "A In case of necessity, yes. Essentially, Japan
24 wished to kill three birds with one stone.

25 "Q Continue.

1 "A In general, now, to go back over what I have
2 said and to put it into a nutshell KASAHARA, upon his
3 return from Japan, had told me of the view of the Govern-
4 ment as he knew them -- this was, however, still unoffi-
5 cial because I had not yet started negotiations as
6 Ambassador. Now, following my talks with KASAHARA and
7 RIBBENTROP I sent the aforementioned plan to Japan
8 officially and received a telegram in return. The gist
9 of this communication was that the plan was agreeable,
10 but that they were in the process of studying the rami-
11 fications thereof and that they would answer as quickly
12 as possible.

13 "Q The views of the Government then are the views
14 that you have just been talking about?

15 "A That is correct. I waited for the answer which
16 did not come for a long time so that finally in December
17 I sent another communication to the Foreign Office, ask-
18 ing why I did not receive an answer. In return I re-
19 ceived a communication to the effect that the most
20 pressing problem was on the matter of naming Russia as
21 the most important concern or subject and other nations
22 as secondary in importance. In this regard the Foreign
23 Office expressed concern that arguments might occur
24 with Germany and they wished to clarify this point fully
25 before proceeding any further, so that they stated they

1 would send a man from the Foreign Office, ITO, Jusshi,
2 who had the rank of a Minister, one man from the General
3 Staff, Lt. Col. TATSUMI, and one man from the Navy
4 General Staff, Captain ABE (he is in Sweden now as a
5 Vice Admiral). I was instructed to talk with them.
6 These men arrived in Berlin in the beginning of February
7 1939. To go back a bit, although this does not concern
8 Japan particularly, I know that around September 1938,
9 after having received the unofficial O.K. from Japan,
10 Germany approached Italy to join in the pact. Italy's
11 answer was that while she liked the idea she did not
12 know whether the time was ripe and requested time to
13 think it over.

14 "Q Who was the Ambassador to Italy from Japan
15 at that time?

16 "A There was only a charge d'affaires at that time.

17 "Q Continue.

18 "A Germany received no answer from Italy on this
19 proposal so that they asked me to urge Japan to approach
20 Italy with the same proposition and requested me to go
21 to Italy as the Japanese had only a charge d'affaires
22 at that time. I dispatched a communication to the
23 Foreign Office requesting permission to do this and
24 received in return an O.K. (the Foreign Minister at
25 this time was definitely ARITA). Upon receipt of this

1 permission around the middle of December 1938, I pro-
2 ceeded to Rome and there met MUSSOLINI, getting from
3 him the same answer that Germany had earlier received.
4 However, very early in January 1939, I heard from the
5 German Government (RIBBENTROP) that Italy had commu-
6 nicated with them to the effect that she was ready to
7 join in at any time. . . .

8 "Interrogation of 7 February 1946, pages 54
9 to 59:

10 "Q General, you may continue with your recital of
11 your story of the Tri-Party Pact from the point where
12 you left off when we adjourned yesterday.

13 "A In regard to what I spoke to you about yester-
14 day, I would like to have you read back to me the por-
15 tion of the transcript following my dispatching the first
16 communication to Japan as Ambassador.

17 "Q The reporter will read that portion of the
18 transcript.

19 "(The same was read by Miss Brunner.)

20 "A The first telegram was sent to Japan after I
21 took office as Ambassador. While I am not certain what
22 its date was, I believe it was in the beginning of
23 November 1938. The answer did not arrive and I sent
24 another one as I told you. Finally, after I sent the
25 second telegram in December 1938, I received the answer

1 which in general stated that because differences might
2 arise between Japan and Germany upon the question of
3 naming Russia as the principal concern and the other
4 nations as secondary, in order to clarify this they
5 would send a Commission from Tokyo. The Germans spoke
6 to me in December 1938, regarding their wish. They had
7 approached the Italians also. My communication to the
8 Foreign Office requesting permission to proceed on
9 this mission was sent in December 1938, and the answer
10 was received from Foreign Minister ARITA in the same
11 month.

12 "Q You may continue, General.
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1 "A The ITO mission first went to Italy, as it
2 was on their road, and after staying there for two or
3 three days proceeded to Berlin, arriving around the
4 beginning of February 1939. A few days after this
5 Ambassador SHIRATORI also came to Berlin from Italy.
6 ITO had with him the Government's plan and wishes on
7 this proposed treaty. Now, this is a very important
8 point and while I do not remember all the details,
9 I wish to outline the principal wish of the Japanese
10 Government as brought by ITO. That was that, while
11 Russia would be the prime object of this pact the other
12 countries, while remaining secondary, would enter into
13 the matter only if they had gone Communistic. In other
14 words, for example, if Japan were to go to war with
15 England, say, this pact would become effective only if
16 England had also gone Communistic.

17 "Q General, will you clarify what you mean by
18 other countries - do you mean any other country?

19 "A I say other countries, because before this
20 pact was drawn up fully in regard to specific nations
21 other than Russia, negotiations ceased. To explain
22 more fully, while there was the intention to go into
23 the matter of specific nations fully at a later date,
24 before we got around to it negotiations were broken
25 off.

1 "Q Actually, Germany had in mind the entire
2 world, did they not?

3 "A Yes, that is true, although Germany also
4 agreed to delete the Americans in the first statement
5 in the preamble.

6 "Q But when the conversations took place between
7 you as representative of the Japanese Government and
8 the German representatives in the very beginning the
9 conversation then pointed to a pact that would be
10 against the entire world, and subsequently these dele-
11 tions of nations were made?

12 "A Yes, the deletions were requested by Japan.
13 Another point was that if Japan were to accept the
14 treaty as proposed by Germany the aid proviso would not
15 work to Japan's advantage because, for example, in case
16 of a U.S.-Japan war, what particular aid could Germany
17 give? Whereas, in case of a German-United States war,
18 as another example, Japan would have to throw in her
19 whole might in the Pacific. These are, of course, only
20 examples that I am giving, and not to be construed as
21 having come from the Japanese Government. Both
22 SHIRATORI and I said that we well understood this
23 feeling upon the part of Japan, but we felt that there
24 would be a danger of rupturing negotiations if at this
25 point Japan were to bring up the matter of it being

1 against nations that had gone Communistic only. After
2 all, up to now, there had been no talk such as this.
3 This matter and my thoughts as given above were com-
4 municated to the Foreign Office in a dispatch during
5 February 1939.

6 "Q Was that dispatch sent while the ITO Com-
7 mission was still in Germany or Italy?

8 "A Yes, while they were in Berlin.

9 "Q You may continue.

10 "A The answer to this communication arrived
11 around the end of February or the beginning of March,
12 and was roughly as follows: the matter of Russia
13 remained the same; however, in regard to the other
14 countries they would go further than simply stating
15 that the pact would only be aimed at nations embracing
16 Communism, but this aid to be given would consist of
17 military advice - by this I mean the trading of intel-
18 ligence, the temporary leasing of bases if necessary,
19 export of fuel oil and other commodities, and in gen-
20 eral all aid outside actual participation. In other
21 words, this was something like the aid that the United
22 States later gave to England before she actually became
23 involved in the war in 1941.

24 "Q Continue.

25 "A This answer was passed to Ribbentrop and the

1 German Government, and I imagine by SHIRATORI to the
2 Italian Government. To digress a moment - in the
3 future, unless Italy looms in the picture as an impor-
4 tant figure, I shall confine my narration to Germany.
5 I believe that I was in error when I said the answer
6 came around the end of February - I believe it was
7 the end of March. In any case, Germany through Rib-
8 bentrop told me that there was no argument in so far
9 as Russia was concerned, and also in so far as making
10 the other nations secondary, but that they wished to
11 have a meeting with the Japanese representatives and
12 get down to brass tacks regarding measures to be taken
13 and naming specific nations. To put it differently,
14 they stated that the time for generalities had passed,
15 and they wished to settle details. The Germans also
16 stated that they wished when drawing up the treaty to
17 make no mention of it being primarily against Russia,
18 but to keep it absolutely general, to leave out any
19 details such as non-military aid, etc., which would
20 weaken the pact. They said that some other means could
21 be found to decide upon details.

22 "Q General, when you say Ribbentrop said some
23 other means could be found to decide upon details,
24 what did the two of you have in mind?

25 "A To go into this a little further, this means

1 that when the treaty is drawn up it would simply state
2 that in case of an unprovoked attack by any other na-
3 tion not a signatory to the pact mutual aid would be
4 given by the signatories. On the surface, therefore,
5 this would appear to the world to be a strong and
6 binding treaty. Of course, certain details of the
7 treaty, or for that matter, the whole treaty would
8 be published, but what Ribbentrop meant was that in
9 regard to Japan's desire to not give more than non-
10 military aid, if the country concerned was not Russia,
11 the Germans wished to hold a meeting and to mutually
12 agree upon this without including it in the actual
13 treaty. Essentially, it becomes impossible to write
14 up a treaty containing such clauses as what will be
15 done in case it would be Russia or in case it would be
16 come other nation, etc.

17 "Q Now, Ribbentrop's views, his actual views,
18 were to the effect that he wanted military, as well
19 as the other type of aid from Japan in case of an
20 attack, is that correct?

21 "A I will speak to you a little more fully about
22 that now. To go over this once more so that there will
23 be no errors, and so that the matter will be entirely
24 understood by you: (1) In so far as the actual pact
25 to be published goes, there was no argument. This was

1 to be simply a mutual aid pact, with no strings
2 attached. (2) Japan wished in this regard to settle
3 the matter either by secret pact or other means in
4 regard to the other nations besides Russia. That is to
5 say, that the aid to be given them would stop short of
6 military aid. (3) Germany objected to this on the
7 grounds that should such a secret pact be signed and
8 should there be a leak and the existence of this
9 secret pact or agreement become known it would serious-
10 ly weaken the actual pact. Therefore, her counter-
11 suggestion was that as there would naturally be meet-
12 ings between the two nations should such a pact be con-
13 summated, the matter of deciding what to do against
14 what country should be left until such a moment, and
15 no binding pact modifying the overall treaty be signed.

16 "Q General, we have been talking about Ribben-
17 trop's views and we have been talking about the views
18 of your Government. I am wondering with respect to
19 how you personally felt about the matter.

20 "A I felt it was simply a question of the approach
21 and that the bridge between the two ideas could be
22 easily built.

23 "Q Actually, General, you were there on the
24 ground and you knew Ribbentrop well; you worked very
25 closely with him; were you not as a matter of fact firm

1 in your feeling that the ideas that he advanced were
2 probably the more desirable?

3 "A I could not go so far as to say that.

4 "Q How far can you go? The other answer seems
5 to me to be extremely general. I want to know what
6 you personally felt.

7 "A I repeat that I felt that there was no basic
8 difference; it was simply in the means to be followed.
9 And then arose the problem of what type of treaty or
10 agreement would suit both nations. In order to draw
11 up a plan that would be satisfactory to both Japan
12 and Germany, two men from my Embassy by the names of
13 USAMI and TAKEUCHI met with Gaus from the German For-
14 eign Office and drew up various plans. None of these
15 was entirely satisfactory to either the German or Japan-
16 ese Governments, but I was continuously trying to find
17 a bridge over which the two might come together and
18 meet. I believe, although, of course, these were only
19 my own thoughts, that Germany began to get suspicious
20 that Japan was attempting to weaken the treaty by a
21 separate secret pact, of which she might in turn inform
22 certain nations of the proposition. Japan on her
23 part might have felt that Germany was attempting to
24 drag her into matters outside the ken of her interests.
25

"Q Where is the ITO Commission during all of this?

1 "A They were around for some time and were still
2 there when the Japanese answer was received, but I
3 believe they left sometime after this.

4 "Q Had they left before the two members from your
5 Embassy commenced preparing proposed drafts of the
6 treaty?

7 "A Yes.

8 "Q It is not exactly clear to me now just what
9 the ITO Commission did?

10 "A They simply brought me the wishes of the
11 Japanese Government and following that had no duties,
12 although they stayed around in Berlin for a time watch-
13 ing developments.

14 "Q Seems to me rather strange it should require
15 that number of men to bring that message.

16 "A I believe they were particularly desirous of
17 explaining their position fully, and wished me to
18 understand their ideas completely before proceeding.

19 "Q Did it take three men to do that instead of
20 just one?

21 "A One could do it, but in Japan it seems to be
22 the thing to send along an Army and Navy man.

23 "Q So that actually then they came over to
24 bring the message from the Japanese Government and
25 to also make it definite and clear to you exactly

1 what the Japanese Government wanted and how far they
2 would go, is that correct?

3 "A They did not say how far I could go or how
4 far I could not go, but simply said to try to carry
5 out negotiations along this line.

6 "Q Do I understand that they wanted you to under-
7 stand definitely what the views of the Army and the
8 Navy and the Foreign Office in Tokyo were and you
9 were to be governed accordingly?

10 "A Yes."
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Greenberg & Barton

1 "Interrogation of OSHIMA, Hiroshi, on 11
2 February 1946, pages 63 and 64:

3 "Q Tell us the circumstances under which
4 you first discussed the matter with SHIRATORI.

5 "A I first met SHIRATORI at San Remo, Italy,
6 in January 1939. We had arranged to meet at some
7 pleasant spot in order to talk over the progress
8 in the negotiations for the Tripartite Pact.

9 "Q General, this meeting with SHIRATORI
10 in Italy took place very soon after your return
11 from Italy to Berlin, that is correct, is it not?

12 "A It was not much over two or three weeks.

13 (And on page 65 to 68):

14 "Q General, can you tell us when the ITO
15 Commission left Tokyo enroute to Berlin?

16 "A They must have left about the beginning
17 of January, as they came by a fast Italian ship
18 and it takes about four weeks, so that it would
19 follow that it would be the beginning of January,
20 as they arrived in Berlin early in February.

21 "Q And it would also follow that that was
22 after you had been to Italy and had been unsuccessful
23 in persuading the Italian Government to come along
24 and join in the Tripartite Pact?

25 "A Yes, that is correct.

1 "Q And while that Commission was enroute
2 to Berlin they stopped in Italy?

3 "A Yes, on the road.

4 "Q And while they were in Italy they discussed
5 this matter with the Italian Government and also
6 with Ambassador SHIRATORI, is not that correct?

7 "A No. They did not speak with the Italian
8 Government - only with SHIRATORI. The events chrono-
9 logically are more or less as follows: I went to
10 Rome, then later after SHIRATORI arrived, we met
11 at San Remo and discussed the Tripartite Pact.
12 Later, after the ITO Commission arrived in Berlin
13 SHIRATORI came there to speak to me again.

14 "Q What was the reason for stopping three
15 or four days in Italy to talk with SHIRATORI when
16 immediately upon the arrival of the Commission in
17 Berlin they had SHIRATORI come up to Berlin to talk
18 about it? Why could not this all have been done
19 in one place?

20 "A I believe he wished to hear further details,
21 as the ITO Commission had only spent three or four
22 days in Italy on the first meeting.

23 "Q General, as a matter of fact this Commission
24 called on SHIRATORI for the same purpose as they
25 called on you, to make it clear to both SHIRATORI

1 and to you exactly what the Japanese Government
2 in Tokyo would do; how far they would go or not
3 go, is that not true?

4 "A That is correct. I intended to speak
5 to you a little more on this point and if you
6 will permit me to continue my narrative, it will
7 come out, but perhaps you would wish me to tell
8 you about this particular matter now.

9 "Q I was about to suggest that you proceed
10 with your narrative from the point at which we left
11 off at the last meeting, but I think it would be
12 helpful if you would make such comments now with
13 respect to this particular matter just referred to,
14 as you care to make.

15 "A As you asked me the other day what the
16 ITO Commission had come for I thought it over and
17 tried to recollect what the communication from
18 Japan stated relative to sending this Commission.
19 As I remember it, the main reason given was that
20 there would be danger of a leak if communications
21 were continued and it would be best to send spokes-
22 men. Of course, later, I heard rumors, which I can
23 not say are either right or wrong, but which you
24 may also have heard, so that I wish to pass them
25 on to you. They were in effect that this Commission

1 had come to make very clear to SHIRATORI and myself
2 the Japanese Government's changed stand upon the
3 Tripartite Pact. Of course, they did not say that
4 this was the reason in talking to me, but I repeat
5 I have heard rumors to this effect.

6 "Q General, tell us a little bit more about
7 how and where you heard those rumors, where they
8 came from?

9 "A I heard of these matters from some of my
10 subordinates who had probably received the rumor
11 in the mails from Japan - from their friends in
12 the Foreign Office, or their family, or something -
13 I do not know exactly from whom.

14 "Q Why do you call them rumors if they
15 emanated from Japan?

16 "A There was nothing on the surface and
17 nothing official, so that they would have to be
18 called rumors.

19 "Q You call them rumors then because you
20 were not officially told of these things?

21 "A Of course, I wondered why in answer to
22 a simple telegram they would send three men, but
23 the official reason given was that it was a security
24 measure. Your questioning me upon this point is
25 quite natural, as it does seem strange, but I can

1 only say that I know nothing beyond these rumors
2 that I just related.

3 "Q General, it is a fact, is it not, that
4 the views of Mr. SHIRATORI and the views of your-
5 self with respect to this proposed pact at this
6 stage of the negotiations were somewhat different
7 from the views of your Government in Japan?

8 "A No, I would not say that our views were
9 different from the Government; rather it would
10 appear that the Government's ideas changed about
11 the time they sent the ITO Commission.

12 "A That is my point, General, the Government
13 in Tokyo had changed somewhat in its views, but you
14 two gentlemen, one in Italy and one in Berlin,
15 there where you were in communication with those
16 Governments constantly, your views did not change
17 automatically with the change in Tokyo; as a matter
18 of fact you did not even know about it until ITO
19 arrived, did you?

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1 "A. We knew of the fact that they wished
2 Russia to be the prime object and all other coun-
3 tries secondary, but we did not know of the point
4 being brought up that other countries would only be
5 included if their Governments became Communistic,
6 until the ITO Commission arrived.

7 "Q. So that actually the Ambassadors in Italy
8 and Germany from Japan were more enthusiastic for the
9 views that had been advanced by RIBBENTROP, because
10 you had been working along that line all this time?

11 "A. I would not say it was any specific indi-
12 vidual's ideas, as up to that time we had been working
13 on the premise that the pact was to be concluded
14 naming Russia as the principal object and other coun-
15 tries as secondary, and details were to be left until
16 later.

17 "Q. So that then when your Government in
18 Japan changed its position they sent the ITO Commis-
19 sion over to make it clear to SHIRATORI and to your-
20 self of this changed position so that you would not
21 go too far in your suggestions to RIBBENTROP and
22 to MUSSOLINI, is not that correct?

23 "A. I would not say that they were sent so
24 as to be a check on us, for up until this time we
25 had been working as the Government desired - that

1 is to say on this point of naming Russia as the
2 principal object and the other countries as second-
3 ary. It is only later, as I told you, through rumor
4 that I heard that the real reason the ITO Commission
5 came was to make clear the change of views of the
6 Japanese Government.

7 "Q. There was no rumor about the fact that the
8 ITO Commission made it clear to you, General, and to
9 SHIRATORI of the changed attitude of the Government
10 in Tokyo?

11 "A. The ITO Commission never stated that these
12 were the changed views of the Government, but that
13 these had been the Government's views all along.

14 "Q. And those views were somewhat different
15 than the course Ambassador OSHIMA and Ambassador
16 SHIRATORI had been pursuing, for you, the two Amba-
17 sadors had been concerned with Russia as the prime
18 object and the other nations as secondary objects
19 without any reference to Communism in so far as the
20 secondary nations are concerned. Now it is changed?

21 "A. Essentially, my point is that was this a
22 change that had taken place then or had the Japan-
23 ese Government always held these views? Officially,
24 there had been no change; it was only that I felt
25 this was a point that had not been brought up before,

1 so, weighing all the rumors and my own thoughts on
2 the matter I reached the conclusion that it must have
3 been a change.

4 "Q. So that in fact, General, ITO and his as-
5 sociates brought with them to you and to Ambassador
6 SHIRATORI the then views of your Government and said
7 that you must work within these views?

8 "A. That is correct.

9 "Interrogation of 12 February 1946, pages 74 and 75

10 "Q. General, if I understood you correctly
11 yesterday when we were discussing the time RIBBENTROP
12 mentioned to you the idea that Germany might seek a
13 non-aggression pact with Russia at HITLER's birthday
14 party, you stated that you had also received informa-
15 tion regarding that matter from your intelligence
16 sources. Now tell us if when you received this infor-
17 mation from your intelligence sources, which I assume
18 was before RIBBENTROP told you about it, you communica-
19 ted the information to your Foreign Office in Tokyo?

20 "A. The information that I said I received
21 from intelligence sources was not concrete at all and
22 was simply rumors which abounded around Berlin at the
23 time that Germany and the U.S.S.R. were entering into
24 negotiations regarding an economic pact (trade pact).
25 These rumors I did not pass on to my Government in

1 Tokyo. Further, I wish to make it clear that when
2 RIBBENTROP spoke to me at the time of a party in
3 celebration of HITLER's birthday, which was held at
4 the Hotel Adlon in Berlin, RIBBENTROP did not state
5 that he was entering into negotiations with Russia.
6 When he spoke to SHIRATORI and me around one or two
7 A.M. in the morning following the party, he said
8 that if the matter of a pact between Germany and
9 Japan continued in the stage of talks for too long
10 a period it might become necessary for Germany to
11 clasp hands with Russia in one way or another. That
12 was all.

13 "Q. General, I understood you to say yesterday
14 that RIBBENTROP was very definite in stating that it
15 might become necessary to seek a non-aggression pact
16 with Russia at the time of this party.

17 "A. Yes, he did say non-aggression pact."
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1 Prosecution document 4047 is offered in
2 evidence to show the interest of the accused
3 SHIRATORI in the conclusion of the Italian-Japanese-
4 German Alliance. I should wish to make a statement
5 regarding the interrogation of the accused OSHIMA
6 just presented and read. Tenth line, page 8 of the
7 English text, page 18 of the Japanese text. Referr-
8 ing to line 10 of page 8, the line reads: "This aid
9 to be given would consist of military advice." This
10 is clearly an error in translation and should properly
11 be rendered as "military assistance."

12 THE PRESIDENT: I do not know whether that
13 is so or not. We will refer it to the Language
14 Section. It does not make much difference as far as
15 I can judge, not in favor of the defense at all
16 events.

17 MR. HYDE: Your Honor, I would like to
18 point out that this is a translation from English
19 to Japanese.

20 THE PRESIDENT: Did he speak in Japanese
21 or in English?

22 MR. HYDE: He spoke in Japanese.

23 THE PRESIDENT: But there was no record of
24 what he said in Japanese?

25 MR. HYDE: The written record is entirely in

1 English.

2 THE PRESIDENT: Well, there is nothing to
3 refer to the Language Section, and the matter, if it
4 calls for correction, can be corrected by the defense
5 when giving evidence later.

6 MR. SHIMANOUCI: I brought this matter up,
7 sir, because it involves violation of instructions
8 by the accused OSHIMA.

9 THE PRESIDENT: Well, OSHIMA, when he goes
10 into the box later to give evidence, can say what he
11 told the interrogator.

12 MR. HYDE: I tendered prosecution document
13 4047, your Honor.

14 THE PRESIDENT: Admitted on the usual
15 terms.

16 CLERK OF THE COURT: Prosecution's document
17 No. 4047 will receive exhibit No. 498.

18 (Whereupon, prosecution's exhibit
19 No. 498 was received in evidence.)

20 MR. HYDE: I point out, your Honor, that the
21 telegram is dated "Tokyo, 8 September 1939," and it
22 is for the State Secretary; that it is signed by
23 "Ott" and marked "Top Secret." I will now read the
24 last sentence. The last sentence:

25 "The Ambassador in Moscow, SHIRATORI, will

1 return from Rome, since at that time he had taken
2 up the post of Ambassador purely in the expectation
3 that he would succeed in concluding an Italian-
4 Japanese-German military alliance."

5 I offer prosecution document 1418 for the
6 purpose of identification only, and I desire to
7 place in evidence as prosecution's document 1418-B,
8 an extract therefrom.

9 MR. NARITOMI: I am counsel NARITOMI for the
10 accused SHIRATORI.

11 May I raise an objection to document 1418,
12 namely, "Ciano's Diary" which the prosecution is
13 about to present? My first inquiry of the prosecu-
14 tion is, what is the original of this diary in ques-
15 tion; that is, what is the original of the document
16 which is to be presented to the Tribunal -- the diary
17 of Count Ciano?

18 The diary of Count Ciano, now in possession
19 of the prosecution, happens to be a photostatic copy.
20 I should like to object to the formal procedure in
21 the tendering of the evidence. According to the form
22 in which the copy of this evidence is being presented,
23 it would be like submitting the original of the Ciano
24 Diary; it would be like presenting the original it-
25 self of the Ciano Diary and not the photostatic copy.

1 According to Japanese civil procedure, if
2 a document of this type is to be presented in the
3 photostatic copy, there should be a cover, either
4 in photostat or in a picture, explaining the origin-
5 al and not the photostat but the original document,
6 and that, for instance, this document would be given
7 the number 1418-A, and the subject matter or the
8 contents of the document would be given exhibit No.
9 1418-B.

1 THE PRESIDENT: Well, it is interesting to
2 hear what is done in Japan, but eleven nations are
3 being represented here, and each has its own laws of
4 evidence. We are not applying the rules of evidence
5 of any of them although we may be guided by them to
6 some extent.

7 The position is this: If we apply the strictest
8 rules of evidence, the original would have to be ten-
9 dered. If the original is not available for some
10 reason or other, a photostatic copy would be admitted
11 if it were accompanied by evidence of the photographer.
12 Now, we have a certificate which was read fully into
13 the record the other day which indicates how this
14 procedure comes about. However, the prosecution are
15 not tendering the photostatic copy as an exhibit;
16 they are tendering an excerpt of so much as they ask
17 the Court to receive as evidence, and they produced
18 the photostatic copy to be marked for identification
19 so that the excerpt may be checked. That meets all
20 the requirements of substantial justice; and the
21 considerations that you raise based upon the civil law
22 of Japan cannot be entertained.

23 MR. NARITOMI: There seems to be a misunder-
24 standing of what I mean, and with your permission I
25 would like to amplify my statement. What I mean by
referring to the civil court or civil procedure of

1 Japan is that in this particular case the evidence
2 is compiled in such a manner, it does not give a true
3 portrayal of the original Ciano Diary. It is our
4 understanding that the laws of evidence of Anglo-
5 American Courts are much more strict than the civil
6 court of Japan. Hence, what I have been trying to
7 say is that if the original is not to be presented
8 but only a compiled form of photostats of the docu-
9 ment, even in Japanese Courts it is customary pro-
10 cedure to put a proper cover on the document, and,
11 therefore, I imagine that such a cover would be
12 most appropriate and necessary here in this Tribunal.

13 THE PRESIDENT: This discussion must not
14 continue. It is serving no useful purpose. You
15 may point out, when you are giving evidence for the
16 defense, that this document should not be admitted
17 because of the absence of these things which you are
18 stressing. That is a question of fact which we cannot
19 determine here now. But, if the prosecution have a
20 ready reply to what is being submitted by the counsel,
21 we would like to hear it. We will hear you, Mr. Hyde.

22 MR. HYDE: If the Court please, this is a
23 photostat of the diary of Count Ciano as obtained from
24 the War Department by us, and contains on its face a
25 certificate that it is a true copy of the diary of

1 Count Ciano.

2 THE PRESIDENT: You have no reason to question
3 that certificate?

4 MR. HYDE: There is no reason to question
5 the certificate, your Honor.

6 THE PRESIDENT: We will not hear any further
7 debate on the matter.

8 We will adjourn now until half past one.

9 (Whereupon, at 1200, a recess was
10 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.

MR. NARITOME: Mr. President, the point which
I was stressing this morning was that although it is
a matter for the Tribunal to decide whether an appropriate cover should be submitted with the document, in case it is a photostatic copy or not, if it is the ruling that such a cover should be submitted, it should not be inside as in this case, but that the outside should be submitted. But that is not my main objection. I wish to raise an objection concerning the contents of this document. My objection concerns the contents of the document with the cover as I have just shown you. This is a photostatic copy (indicating). I wish to ask where the original of the document -- where the original document from which this photostatic copy was taken is at present. Concerning this point we have heard that there are very dramatic circumstances surrounding it. This so-called Ciano Diary -- the author of this diary, Count Ciano, was imprisoned and disappeared

1 or was killed when Italy capitulated, but the story
2 goes that Countess Ciano concealed this diary in
3 her undergarments and fled with it to Switzerland.

4 THE PRESIDENT: Now we do not want to hear
5 any more little stories like that. You are not making
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1 any objection and supporting it in the usual way
2 by short clear grounds. You are just attempting to
3 carry on a conversation with the Bench. That is not
4 permitted. I think I have explained the position of
5 the Court clearly enough. This document will be
6 received for whatever probative value it has, and
7 when you are giving evidence in defense, then you
8 may point out the circumstances, if they are helpful
9 at all. But for the time being we will not hear any
10 more about it. The document is admitted on the usual
11 terms. I have heard all I am going to hear.

12 Mr. Hyde.

13 MR. HYDE: If the Court please, will a
14 number be assigned to the document?

15 CLERK OF THE COURT: Prosecution's document
16 No. 1418, the Diary of Count Ciano, in two volumes,
17 will receive exhibit No. 499 for identification.

18 (Whereupon, prosecution's exhibit
19 No. 499 was marked for identification.)

20 MR. SMITH: If your Honor please, we would
21 like to object to these documents because they
22 contain a great deal of matter which could not
23 possibly have any relevancy to this case.

24 THE PRESIDENT: Your objection comes too
25 late. You have heard me deal with the objection.

1 After I overruled the objection you approached
2 the lectern. You are too late.

3 MR. SMITH: May I respectfully point out to
4 your Honor that previous counsel was speaking on
5 behalf of his own client. I am assigned to a
6 central table and it is part of my job in order to
7 save numerous repetitions of the same thing in
8 different language to make common objections on
9 behalf of all counsel.

10 THE PRESIDENT: The document was admitted
11 and marked before you appeared. This looks like
12 organized interruption to me and I shall know how
13 to deal with it. This Bench will know how to deal
14 with it. I tell you your objection comes too late
15 and we will not hear you further.

16 MR. SMITH: Would your Honor allow me a
17 specific objection to the ruling of the Court and
18 refusal to hear me on that simple objection?

19 THE PRESIDENT: Mr. Hyde.

20 MR. HYDE: If the Court please, I now offer
21 in evidence prosecution's document 1418-B, which is
22 an extract from exhibit 499 for identification.

23 THE PRESIDENT: Admitted as before.

24 CLERK OF THE COURT: Prosecution's document
25 No. 1418-B, will receive exhibit No. 499-A.

1 (Whereupon, prosecution's exhibit No.
2 499-A was received in evidence)

3 MR. HYDE: I will now read the exhibit
4 just mentioned:

5 "DIARY OF COUNT CIANO

6 * * *

7 "January 7, 1939.

8 "I see the Japanese Ambassador who speaks
9 to me of the alliance. He is afraid that the new for-
10 eign minister, Arita, will be rather cold toward the
11 idea, but says that the Premier is openly in favor
12 of it. This will not influence the conclusion of
13 the pact but might postpone the date of the signing.
14 Therefore, the Ambassador wishes to be received by
15 the Duce, so that he can send a telegram promptly.
16 The Ambassador is greatly in favor of the alliance
17 which he regards as a weapon to force Great Britain
18 to concede 'the many things she owes to us all.'
19 Ribbentrop sends me the text of the pact, as well as
20 the text of the secret conversation for the use of
21 the military commissions."

22 The Tribunal's attention is directed to
23 the conference of 31 January 1939, prosecution docu-
24 ment 533, in evidence as exhibit 489, in which
25 Ambassador OSHIMA discussed with Himmler the conclusion

1 of the treaty to consolidate the triangle of Germany,
2 Italy and Japan into an even firmer mold.

3 Prosecution document No. 4043-A is tendered
4 in evidence.

5 THE PRESIDENT: What is this? I want you to
6 tell me what it is about.

7 MR. HYDE: This is a telegram, your Honor,
8 from Ott relative to the ITO Commission and his
9 trip.

10 MR. CUNNINGHAM: If the Court please, we
11 would like to object to this document for the reason
12 that it is part of testimony of a live witness who
13 is available to the prosecution and who should be
14 made available to the defense for cross-examination.

15 THE PRESIDENT: Obviously, telegrams and
16 other communications sent by persons still living
17 can be admitted in evidence in any court. The objec-
18 tion is overruled.

19 The document is admitted on the usual terms.

20 CLERK OF THE COURT: Prosecution's document
21 No. 4043-A will receive exhibit No. 500.

22 (Whereupon, prosecution's exhibit
23 No. 500 was received in evidence.)

24 MR. HYDE: I will read exhibit 500. This is
25 a telegram by secret cipher process from Tokyo, 18

1 February 1939. It is for the State Secretary
2 personally and is marked "Top Secret." (Reading):

3 "In annex to telegram of the first, No. 44.

4 "Further news concerning Anti-Comintern Pact
5 gives the following picture:-

6 "Japanese Cabinet is supposed to have
7 finally decided upon an intensification of the pact,
8 in opposition to the Anglo-phile ideas, especially
9 of the court circle. The British Ambassador, greatly
10 agitated, depicted Japanese pact policy to me recently
11 as the wrong road, which would strain relations with
12 England extraordinarily. Likewise, the former Japan-
13 ese Ambassador to Washington urgently warned the
14 Government in the Diet of alienating the Anglo-Saxon
15 powers and succeeded in bringing about a one-hour
16 review of Anti-Comintern policy which was not pub-
17 lished. Other Diet members, on the other hand, repeat-
18 edly strengthened the government in its pact policy.

19 "Consul General ITO is to be sent to Europe
20 with the special mission of instructing the opposing
21 chiefs of /diplomatic/ missions /abroad/.

22 "The Polish Ambassador and Reuters Agency
23 are spreading the news here that a military alliance
24 has been concluded, which I privately considered/to
25 be/fabricated. These rumors preoccupy diplomatic and
Japanese circles as well as the international press,

1 especially in connection with the intensification
2 of the situation in Europe. In this connection the
3 younger officers and active circles are expressing
4 the hope for a conflict in Europe which might remove
5 the pressure of the great powers in the Far East.
6 (Signed) Ott."

7 I now offer in evidence prosecution document
8 No. 1418-D. This document consists of three excerpts
9 from prosecution document 1418, which has been marked
10 exhibit 499 for identification.

11 THE PRESIDENT: Admitted on the usual terms.

12 CLERK OF THE COURT: Prosecution's document
13 No. 1418-D will receive exhibit No. 501.

14 (Whereupon, prosecution's exhibit
15 No. 501 was received in evidence.)

16 MR. HYDE: I will read prosecution document
17 1418-D, which is now in evidence as exhibit No. 501:

18 "Diary of Count Ciano"

19 THE PRESIDENT: Pronounced "Ciano."

20 MR. HYDE: I beg your pardon?

21 THE PRESIDENT: I think he is usually called
22 "Ciano," is he not?

23 MR. HYDE: Thank you, sir. (Reading continued):
24 "February 6, 1939.

25 "The Japanese Ambassador is skeptical about
the possibility of an early conclusion of the triple

1 alliance. He believes that the Japanese counter-
2 proposal will be a compromise proposal which he
3 himself advises us not to accept.

4 "March 6, 1939. * * *

5 "News from Berlin confirms that the
6 Japanese government objects to the signing of the
7 Tripartite Pact. Oshima plans to resign. He says
8 that the Cabinet would fall. And then what? I do
9 not see clearly. It is really possible to involve
10 distant Japan deeply in European political life, a
11 life which is becoming increasingly complicated and
12 uncertain, and which is subject to change, from one
13 moment to the next, by a simple telephone call?

14 "March 8, 1939. * * *

15 "I see the Japanese Ambassador. He confirms
16 what Attolico wrote concerning the Japanese reply on
17 the Tripartite Alliance. Many reservations and the
18 intention of regarding the Pact as exclusively anti-
19 Russian; a reply so unsatisfactory as to render very
20 doubtful the possibility of actually concluding this
21 alliance. Oshima and Shiratori have refused to com-
22 municate through official channels. They asked Tokyo
23 to accept the Pact of Alliance without reservation,
24 otherwise they will resign and bring about the fall
25 of the Cabinet. A decision will be made within the

1 next few days. Shiratori claims that if it is
2 favorable the signing can take place in Berlin during
3 March, otherwise it will all be postponed till
4 doomsday. The delay and the entire Japanese procedure
5 make me very skeptical of the possibility of an ef-
6 fective collaboration of Fascist and Nazi dynamism
7 with the phlegmatic slowness of the Japanese."

8 MR. NARITOMI: Mr. President, how can we
9 tell that this so-called diary of Count Ciano was
10 written by Count Ciano himself?

11 THE PRESIDENT: You will be able to tell us
12 when you give your evidence for the defense probably.
13 We cannot hear you further along those lines. We
14 have dealt with your objection.

15 MR. HYDE: I offer in evidence prosecution
16 document 4035. It is a telegram from Ribbentrop to
17 the German Ambassador in Tokyo giving Ribbentrop's
18 account of negotiations for a military alliance between
19 Japan, Germany and Italy.

20 THE PRESIDENT: Admitted on the usual terms.

21 CLERK OF THE COURT: Prosecution's document
22 No. 4035 will receive exhibit No. 502.

23 (Whereupon, prosecution's exhibit
24 No. 502 was received in evidence.)

25 MR. HYDE: I will now read from the exhibit

1 just mentioned. This is a telegram marked "Top
2 Secret" - Berlin, 26 April 1939. It is marked
3 exclusively for the ambassador personally in Tokyo.
4 (Reading):

5 "Top secret discussions between Berlin,
6 Rome and Tokyo on the conclusion of a defensive
7 alliance have been in progress for some time.
8 They have for special reasons and in accordance
9 with agreements made with the other partners been
10 conducted outside usual diplomatic channels.

11 "In the summer of 1938 General OSHIMA,
12 still military attache at that time, gave the in-
13 formation that the time had come in the opinion of
14 the Japanese army to conclude a general defensive
15 alliance between Germany, Italy and Japan. He
16 gave the contents of the alliance pact as follows:

17 "1.) Consultation of the three powers
18 in case one of them should get into political dif-
19 ficulties:

20 "2.) Political and economic support in
21 case one of the three powers should be threatened
22 from outside:

23 "3.) Granting of help and assistance in
24 case one of the three powers should be attacked
25 without provocation by another power.

1 "At the time of the Munich Conference at
2 the end of September the matter was discussed with
3 MUSSOLINI and Count CIANO. This discussion was re-
4 sumed during my visit to Rome at the end of October
5 with the result that the Duce declared his funda-
6 mental agreement but still made a reservation with
7 regard to fixing the date for the conclusion of the
8 pact. Then the Italian Foreign Minister made known
9 at the beginning of January that the Duce was now
10 ready for the signing.

11 "The text of the pact was worked out by
12 direct consultation between me, OSHIMA and CIANO.
13 Besides the above three points it also contained
14 the obligation that in the event of a war waged in
15 common an armistice and a peace would only be con-
16 cluded jointly, and the duration of the agreement
17 was set at ten years. The treaty draft was further
18 supplemented by the draft of two secret protocols,
19 which provided for immediate consultation on the
20 execution of the obligation of assistance in the
21 various cases coming into consideration and in
22 addition special measures for mutual treatment of
23 questions on propaganda and press. Drafts were
24 sent by OSHIMA to Tokyo by special courier where
25 they were made the subject of cabinet deliberations.

1 "At the beginning of March, OSHIMA as well
2 as Ambassador SHIRATORI in Rome received instructions
3 according to which the Japanese Government agreed, it
4 is true, with the idea of the pact in general, but,
5 wished to limit mutual obligations of assistance only
6 to the case of a war with Russia. Both ambassadors
7 informed me and CIANO only confidentially and person-
8 ally of this, but, on the other hand, immediately re-
9 fused Tokyo on their own accord to present such a
10 fundamental change of the German-Italian draft in
11 Berlin and Rome. They once more stood up for the
12 acceptance of the original suggestion and declared
13 that they would have to resign from their posts in
14 the event of a different decision of the Japanese
15 cabinet.
16

17 "Subsequently at the beginning of April
18 a Japanese draft arrived from Tokyo which funda-
19 mentally corresponded to the German and Italian
20 draft but, however, reduced the duration of the
21 agreement to five years. The earlier Japanese
22 wish to limit the obligation of assistance only to
23 the case of Russia was, however, still retained in
24 a weakened form, that the Japanese asked for our
25 express approval to be able to give, after the sign-
ing and publication of the pact, a declaration to

1 the English, French and American ambassadors with
2 roughly the following contents: The pact had de-
3 veloped from the Anti-Comintern Pact: the partners
4 had looked upon Russia as being the enemy: England,
5 France and America had no need to feel that they
6 were meant by it. The Tokyo cabinet gave as a
7 reason for the necessity of such a limited inter-
8 pretation of the pact the fact that Japan, for po-
9 litical and in particular, for economic reasons,
10 was at the moment not yet in a position to come
11 forward openly as the opposer of the three democ-
12 racies. OSHIMA and SHIRATORI have indicated to
13 Tokyo that this wish of the Japanese Government
14 was also impossible and have informed CIANO and
15 myself again purely confidentially regarding the
16 proceedings. CIANO as well as I left no doubt
17 that the conclusion of an agreement with this in-
18 terpretation, which is in direct contradiction to
19 the text of the agreement, is quite out of question
20 for us. Further I have, in order to hasten a final
21 clarification, informed OSHIMA and SHIRATORI who
22 was in Berlin on the occasion of the Fuehrer's
23 birthday, that I must, before the Fuehrer's speech
24 on 28 April, know the final positive or negative de-
25 cision of the Japanese cabinet. Both Ambassadors

1 have wired this to Tokyo.

2 "The above information is meant exclusively
3 for your personal information. I ask you to keep it
4 strictly secret, and for your part, not to allude
5 to this topic in your conversations there until
6 later and, in case you are spoken to by another
7 party about it, not to give any recognition what-
8 soever of the fact of having been informed of the
9 fact. That applies also to the Italian Ambassador
10 there, who according to information given by CIANO
11 has not been informed up to now. On the other hand
12 I ask you to observe carefully developments there and
13 to keep me continuously informed upon the matter by
14 wire.

15 RIBBENTROP"
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1 MR. HYDE: Prosecution's document 4043-B and
2 D, and 4043-C are offered in evidence. They are copies
3 of telegrams from the German Ambassador in Tokyo to the
4 Reich Foreign Minister, and respectively relate to
5 what is known as the "HIRANUMA Declaration," and the
6 Japanese Army's interpretation of it.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Prosecution's document
9 4043-B and D will receive exhibit No. 503, and docu-
10 ment No. 4043-C will receive exhibit No. 504.

11 I (Whereupon, prosecution's exhibits
12 Nos. 503 and 504 were received in evidence.)

13 MR. HYDE: I will now read from exhibit 503.

14 "Telegram (Secret C: Process) Tokyo, 4
15 May 1939,"

16 This is marked "Top Secret" and "Most urgent."

17 (Reading):

18 "For the Reich /Foreign/ Minister personally.

19 "The Foreign Minister called me and communica-
20 ted the following: The negotiations taking place in
21 Berlin and Rome on the Anti-Comintern Pact came to a
22 deadlock 10 days ago. To continue them, Prime Minis-
23 ter MIRANUMA directed a statement to the Fuehrer and
24 German Chancellor, which the Foreign Minister read
25 and herewith handed over to me for further transmission.

1 I accented the statement, compiled in Japanese and
2 French text, with the reference that I would communi-
3 cate them by telegraph to the German Foreign Minister,
4 and I refrained from giving any opinion. The same
5 statement was previously communicated and just de-
6 livered to the Italian Ambassador for MUSSOLINI.

7 "Text in translation:"

8 This is quoted.

9 "I cherish great admiration for the lofty
10 wisdom and the iron will with which His Excellency,
11 Chancellor of the German Government, HITLER, is work-
12 ing at the noble task of the reconstruction of his
13 country and at the establishment of an international
14 peace founded upon principles of justice.

15 'I, for my part, as Japanese Prime Minister,
16 am likewise occupied with the strengthening of peace
17 and with the maintenance of a New Order in East Asia
18 founded on the principles of justice and morality.

19 'In this splendid hour it is a confirmed
20 joy to me how effective the Anti-Comintern Agreement
21 between our two countries proves itself in the exe-
22 cution of the tasks placed before them. And today if
23 I have in view the conclusion of an agreement, to
24 strengthen the Anti-Comintern Pact and to make closer
25 the co-operation between Japan, Germany and Italy,

1 this does not occur just out of a consideration of
2 the more expediency of it, but in the hope that in
3 that way we may contribute to the consolidation of a
4 world peace founded upon justice and morality in
5 consciousness of our common tasks now. As far as
6 the strengthening of our relations is concerned, I
7 can affirm that Japan is firmly and steadfastly re-
8 solved to stand at the side of Germany and Italy even
9 if one of those two powers were attacked by one or
10 several powers without the participation of the Soviet
11 Union and to afford them political and economic and,
12 to the extent possible to her power, military assis-
13 tance.

14 'In spite of this Japan is ready, in accord-
15 ance with the provisions of such an agreement to take
16 up the military support of Germany and Italy; however,
17 Japan is, in view of the situation in which it now
18 finds itself, neither presently nor in the near future
19 able to extend to them in a practical manner any
20 effective military aid. However, it goes without
21 saying that Japan would gladly grant this support if
22 it should become possible through a change in the
23 circumstances.

24 'I should especially like to receive Ger-
25 many's and Italy's express consent to the foregoing

1 point.

2 'Futhermore, in consequence of the inter-
3 national situation which confronts it, Japan would
4 be compelled to exercise the greatest caution in re-
5 gard to the explication which it would give at the
6 time of the publication of this agreement. I would
7 be glad to receive the unequivocal assent of Germany
8 and Italy on this point also.

9 'I may add that the planned agreement rests
10 upon the foundation of mutual confidence, and that
11 to doubt the sincerity of my country in the slight-
12 est would be tantamount to destroying the real basis
13 of the agreement and would make its execution im-
14 possible.

15 'The thoughts which I have just portrayed
16 arise from reflections of a moral and spiritual nature
17 and can not be influenced by reasons of expediency.
18 If I undertook to express them with all frankness,
19 it was because I was guided exclusively by the sin-
20 cere desire to bring our endeavors to a satisfactory
21 conclusion.'"

22 The quotation is closed.

23 '4 May 1939'

24 "(without signature)

25 "Close of the statement.

1 "I hear from army circles that the Prime
2 Minister took this surprising course to personally
3 counteract any doubts that may have risen in Berlin
4 and Rome concerning the situation and readiness of
5 Japan and to arrive at a compromise as far as possible.
6

7 "The Foreign Minister when he handed over
8 the statement was visibly in a bad mood. Will try
9 to clarify unobtrusively the Army's interpretation."

10 That is signed, "OTT".
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1 MR. HYDE (Continuing) Now I will read
2 document 4043-C in evidence as exhibit No. 504. This
3 is a telegram sent Secret Cipher Process, dated Tokyo,
4 6 May 1939, marked "MOST URGENT" and "VERY SECRET!"

5 (Reading):

6 "Top Secret - For State Secretary

7 "Annex to telegram of fourth, No. 184.

8 "Declarations of various General Staff
9 Officers, among them that of my former confidant
10 who is working in direct accordance with instruc-
11 tions from the War Minister, as well as a talk of the
12 War Vice Minister with the Italian Military Attache,
13 reveal the following viewpoint of the army, which
14 I consider official.

15 "The Prime Minister has obtained a com-
16 promise, which the army indicates as the highest
17 possible offer under present conditions, in the
18 conflict of the five-minister conference (War Minis-
19 ter and Finance Minister against the Foreign Minis-
20 ter and Navy Minister).

21 "Concerning the main points of the dec-
22 laration, the army explained:

23 "1). Regarding obligatory aid, the army
24 had further proposed to lay down more clearly the
25 'change in circumstances' which would later make

1 effective aid possible, and to declare in short that
2 the neutrality of Japan would not in any way enter
3 into the question. The army attributed the present
4 wording to the Foreign Minister. The War Vice Min-
5 ister declared that the treaty bound Japan definitely
6 to the Axis Powers. We must, however, understand
7 that Japan was isolated in the Far East and was in
8 a considerably worse position than the Axis bloc in
9 Europe which could cooperate directly. In case of
10 war, however, independent of the outbreak and extent
11 of Japanese acts of war, just the plain fact of the
12 treaty would exert effective pressure on the enemy.

13 "2). Re the 'Explanation', the army em-
14 phasizes that the present proposal was more elastic,
15 contained no specific formulation, and left open
16 negotiations for which there were supposed to be favor-
17 able prospects, according to OSHIMA's telegram re-
18 ceived yesterday.

19 "3). Explanations concerning 'Sincerity
20 of my Country' were indicated as a particularly im-
21 portant personal word of honor of the Prime Minister,
22 after I had referred to the wording which could be
23 easily misunderstood.

24 "The whole statement had been delivered to
25 the Emperor by the Foreign Minister, which fact

1 also follows from the indications made in the press.
2 In case an agreement is not reached, the army expects
3 a resignation of the cabinet, which would be quite
4 undesirable at the present time for foreign and do-
5 mestic reasons.

6 "Declarations from navy circles not yet
7 obtainable. Main opposition of the navy comes
8 evidently from Navy Vice Minister YAMAMOTO.

9 "From the Foreign Ministry a senior of-
10 ficial, who stands especially close to Ambassador
11 SHIRATORI, let me know personally that in the en-
12 tire government a deep cleft between friends and
13 enemies of the alliance had formed. The situation
14 was very serious and complicated. By his personal
15 initiative, the Prime Minister had achieved a dec-
16 laration of compromise which accepts the principle
17 of an unlimited alliance, limiting this, however,
18 by two significant reservations. This attitude of
19 Japan must, it is true, astonish the Axis Powers, who
20 are accustomed to unequivocal decisions, but it
21 arises necessarily from the lack of unified leader-
22 ship. Should negotiations collapse, cabinet crisis
23 is threatening with serious consequences.

24 "General impression is that most active
25 preliminaries of the treaty idea stress extraordin-

1 any difficulties and (one word apparently lacking)
2 urgently hopes that HIRANUMA's declaration would
3 offer the opportunity for the final conclusion of
4 the treaty."

5 This is signed "OTT".
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1 MR. HYDE (Continuing): I present prosecution's
2 document 1275 for introduction in evidence. This is
3 a memorandum about the conference between Field Marshal
4 Goering and the Duce in the presence of Count Ciano
5 in Rome on 16 April 1939.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 1275 will receive exhibit No. 505.

9 (Whereupon, prosecution's exhibit
10 No. 505 was received in evidence.)

11 MR. HYDE: I will read the document just
12 mentioned, commencing with the second paragraph.

13 (Reading):

14 "Referring to the political situation,
15 the Duce declared in addition that he considered
16 a general war unavoidable. He only asked himself
17 when the most favorable moment for it as far as
18 the Axis powers were concerned would have arrived
19 and who would seize the initiative in such a conflict.

20 "Marshal GOERING was of the opinion that
21 the Axis powers should still wait a bit until their
22 armaments compared more favorably with those of the
23 democracies. The Duce, once again and in a more
24 precise form, asked about the most favorable moment
25 for such a conflict. Upon which Marshal GOERING

1 pointed out that the armaments ratio between Germany
2 and England, particularly in the naval field, would
3 be considerably more favorable in 1942-43, that
4 France's arming was hampered by a shortage of men,
5 so that France's preparations already today were all
6 directed on the defensive side.

7 "The Duce next asked, 'What are we to do
8 until this favorable moment for a general conflict?'
9 Marshal GOERING answered that the Axis powers must
10 arm themselves to the utmost and maintain even now
11 a state of mobilization. This was already the case
12 in Germany. He (Marshal GOERING) based all his
13 measures on the supposition that mobilization
14 was already under way, even if it hadn't been
15 publicly announced yet. There were only three
16 limitations on German arming, production capacity,
17 stock of raw materials, and the number of available
18 workers. Germany would under no circumstances
19 abandon (for financial reasons) any armament
20 measure considered essential by him.

21 "The Duce confirmed that the same was
22 true for Italy and summed up his impression of
23 the discussion to the effect that the Axis powers
24 still needed two or three years to be well armed
25 for a general conflict and to be able to enter

with prospects of victory.

1 "General Situation: Germany and Italy
2 will not let themselves be provoked into a conflict
3 but will wait for what they consider the opportune
4 moment. They will further strengthen their armaments
5 and with a view to later joint ventures will enter
6 into talks on the synchronization of selfsufficiency
7 as well as the cooperation of air and naval forces.
8 In the meantime they will continue more vigorously
9 than ever the 'war in the press', but will not
10 undertake anything bigger. (When the Marshal said
11 in this connection that Germany had recently acquired
12 a whole series of territories and only needed peace
13 to digest them, the Duce agreed most emphatically.)
14 'To speak of peace and to prepare for war, that
15 is to say, for victory' shall be the motto for
16 the behavior of both countries.

18 "On the wish of the Duce the above summation
19 was read out loud once more by me in French and
20 met with the approval of those taking part in the
21 talk.

22 "At the close the Duce remarked that both
23 countries would maintain a lucid attitude and untroubled
24 nerves and with a superior smile would dispose of all
25 foolish attempts to discover disunity among the Axis powers.

"Berlin, 18 April 1939."

1 MR. HYDE: I will read prosecution's document
2 1382, which is in evidence as item 11 of exhibit No.
3 486, and which has been assigned exhibit No. 486-K.
4 It is a statement through Ribbentrop of an agreement
5 made by Germany and Italy as to the importance of
6 immediate participation by Japan in a tri-partite
7 military alliance.

8 (Reading: "Berlin, 15 May 1939, German
9 Embassy, Tokyo."

10 Transmitted "Telegram in Ciphers (Secret
11 Cipher Process).

12 "Exclusively for the Ambassador personally
13 in answer to telegram No. 197.

14 "The other day I informed Ambassador OSHIMA
15 in agreement with the Italian Government regarding
16 the German and Italian viewpoint as follows:

17 "(1) The German and Italian Governments
18 are willing to continue political line they had fol-
19 lowed up to the present toward Japan unchanged.

20 "(2) The two Governments have decided to
21 sign a bilateral pact of alliance during this month
22 because they find it proper to counter the political
23 activities displayed by the Western Powers for propa-
24 ganda purposes with a quick counter-action.

25 "(3) Tri-lateral negotiations Berlin-Rome-

1 Tokyo are not in any way prejudiced by the anticipated
2 German-Italian pact of alliance. This pact of alliance
3 will definitely prove from a legal point of view the
4 unshakable firmness of the Berlin-Rome Axis. The
5 Japanese can only welcome it to see the internal re-
6 lationship between their two European partners cleared
7 of any doubt and to see that any possibility of in-
8 ternal divergences between these partners is excluded,
9 if they want a tripartite pact.

10 "(4) Moreover the fact that the conclusion
11 of the tri-partite pact is delayed so long is not the
12 fault of the German or Italian governments. For a
13 long time I have pointed out to the Japanese that there
14 might be a necessity of a prior conclusion of a German-
15 Italian pact if the conclusion of the Tripartite Pact
16 is postponed for a longer period of time.

17 "(5) For the Japanese, it is also not a
18 disturbing element that the German-Italian pact will
19 contain in some respects closer ties than the present
20 draft of the Tripartite Pact. It is quite natural
21 that the political and military cooperation between
22 the two European neighboring countries which find
23 themselves directly face to face with France and
24 England is more intensive than the cooperation with
25 the faraway Japan. If therefore the difference in the

1 two pacts, becomes apparent, it does not mean that
2 Japan is pressed down politically to a lower level of
3 friendship by Germany and Italy. The world public for
4 whom the Axis Berlin-Rome has been a firm concept for
5 a long time will feel that such a difference is a
6 matter of course. Besides, it was Japan which always
7 urged a cautious formulation of the obligations in
8 the Tripartite Pact. Germany and Italy would only
9 welcome it if Japan would participate in the closer
10 connection of the German-Italian Pact. Japan, how-
11 ever, can not demand and has no interest in the fact
12 that Germany and Italy accommodate themselves to the
13 level desired by Japan for the Tripartite Pact as
14 far as their internal relationship is concerned.

15 "(6) A parallel existence of the German-
16 Italian pact and the Tripartite Pact involves no
17 difficulties in the matter itself or from technical
18 viewpoint. The various provisions of the present
19 Japanese draft for a Tripartite Pact may remain en-
20 tirely unchanged. It is only necessary to insert at
21 the end an entirely formal article clarifying the
22 relationship between the two pacts from a legal view-
23 point. I handed a draft of the respective article to
24 OSHIMA.

25 "(7) The German-Italian governments

1 have the urgent wish that the Japanese Government
2 reach its final decision quickly so that it would be
3 possible to formulate secretly the Tripartite Pact
4 simultaneously with the signing of the German-Italian
5 Pact. This wish shows again that any thought of a
6 political disregard of their relations to Japan is
7 far from them.

8 "I request of you to utilize the above view-
9 points toward your confidant and if possible also
10 toward the War Minister directly and thus to work
11 for a quick and positive decision of the Government
12 here. In doing so I ask you to mention casually and
13 in a fitting manner the following: If the German and
14 Italian governments, as stressed above, are firmly
15 determined to keep to their previous policy toward
16 Japan, it is on the other hand, impossible to conceal
17 that the entire previous attitude of the Japanese
18 government is gradually beginning to create a certain
19 skepticism in Rome and Berlin. MUSSOLINI gave expres-
20 sion to anxiety the other day whether the manner in
21 which the matter was dealt with in Tokyo up until now
22 should not be interpreted as meaning that the Japanese
23 Government would in the end not find the strength for
24 a positive decision. Furthermore, the Fuehrer de-
25 clared within the last few days repeatedly in talking

1 to me that the Japanese attitude was becoming less
2 and less comprehensible. Japan must recognize from
3 her viewpoint that her great political interests con-
4 form with those of Germany and Italy and that, there-
5 fore, her place was of the side of these two powers.

6 "Furthermore, I ask you to make it clear
7 to your Japanese partner in conversation that Japan's
8 fear that America might join England and France in the
9 case of war is by no means an argument against the
10 conclusion of the Tripartite Pact, since this pact
11 will be the best means to keep America out of the war.
12 On the other hand it must be clear to Japan that the
13 consolidation of her position in East Asia and par-
14 ticularly in China depends first on the superiority
15 of the Axis powers over the Western powers. If this
16 superiority did not exist Japan would soon feel the
17 consequences. It is, therefore, without a doubt
18 completely in Japan's interest to strengthen this
19 superiority by participating and not allowing the
20 impression to rise among the Western powers as if
21 they could count on Japanese neutrality in case of
22 a conflict with Germany or Italy. Text of the draft
23 of the pact and the appertaining papers will be
24 telegraphed to you for your personal information
25 specially. (Foreign Minister of the German Reich.)"

1 MR. HYDE: I call the Tribunal's attention
2 to the fact that it has taken judicial notice by its
3 order No. 400 of the following historical event:
4 August 23, 1939, the German-Russian non-aggression
5 Treaty was signed. I now ask the Tribunal to take
6 judicial notice of an additional historical fact, which
7 is found on page 191 of the book entitled, "Events
8 Leading up to World War II." May 22, 1939, Germany
9 and Italy signed formal treaty of military alliance.

10 MR. LOGAN: If the Tribunal please, there
11 has been no order entered with respect to that last
12 article which was read by counsel, and there is no
13 document in evidence from which he can read such a
14 statement. If he wants to offer the book that is
15 something different.

16 THE PRESIDENT: I understood him to say that
17 by an order of the Court a certain fact was to be
18 judicially noticed. It could only have been a con-
19 sent order. I then understood him to ask that a
20 further fact be judicially noticed, a fact that has
21 not been covered by order, consent, or otherwise.

22 MR. HYDE: That is correct.

23 THE PRESIDENT: The expression "consent or
24 otherwise" is perhaps somewhat elliptical. We will
25 say order by consent or otherwise.

1 Well, Mr. Logan, have I stated your under-
2 standing of the position?

3 MR. LOGAN: Yes, your Honor. The first
4 statement was brought up in chambers and order en-
5 tered on it, but the second statement was not, and
6 it contains conclusions in there to which we seriously
7 object.

8 THE PRESIDENT: Mr. Logan, I understand the
9 prosecution are now asking us to take judicial notice
10 of the fact that a treaty of military alliance was
11 made between Germany and Italy in May, 1939. Is that
12 true. We will hear any objection you would like to
13 make on that, Mr. Logan.

14 MR. LOGAN: If your Honor please, he was
15 reading that from a book entitled --

16 THE PRESIDENT: Well, I don't care what the
17 source of it is.

18 MR. LOGAN: -- "Events Leading up to World
19 War II." It would be my suggestion that there are
20 either one of two ways to handle this: either mark
21 this book in evidence if they wish to read an ex-
22 cerpt from it, or else get the original alliance so
23 we can see it and read it and know what it is about.
24 We don't know anything about it just hearing a state-
25 ment to this effect.

1 THE PRESIDENT: Well, the Tribunal takes
2 judicial notice of the fact that such an alliance
3 was made at that time between those Powers.

4 MR. HYDE: I will read prosecution's docu-
5 ment 1381 in evidence as Item 12 of Exhibit 486, and
6 which has been assigned exhibit No. 486-L. It re-
7 lates to the Japanese protest over the conclusion of
8 the German-Russian non-Aggression Treaty.

9 THE PRESIDENT: Admitted on the usual terms.

10 MR. HYDE: (Reading)

11 "Telegram (Secret Cipher Process) Tokyo,
12 25 August 1939, 8:40 o'clock. Arrival: 25 August
13 1939, 2130 o'clock." Marked "Most Urgent." "In
14 answer to Telegram No. 260 of 22 August." Marked
15 "For the State Secretary, Secret."

16 "Today I visited the Foreign Minister,
17 after the Japanese press and public opinion had been
18 severely shaken by the text of the Non-Agression
19 Pact. Explained the German desire to further pre-
20 serve friendly relations with Japan, and the reasons
21 and advantages of the German action, according to
22 guidance given in Telegram No. 260. The Foreign
23 Minister followed with particular attention my ex-
24 planation of eventual German influence on the sta-
25 bilizing of Russo-Japanese relations, reserved his

1 taking of an attitude for a later discussion.

2 "He handed me copies of the following in-
3 structions he had sent today to OSHIMA:

4 "(1) To inform the German government that
5 the Japanese government had interpreted the conclusion
6 of the Non-Aggression Pact as finally terminating the
7 present negotiations between Japan and Germany for
8 a Tripartite Pact with Italy;

9 "(2) The Japanese government declares that
10 the German act of making a non-aggression pact with
11 Russia constitutes a serious violation of the secret
12 agreement attached to the Anti-Comintern Pact be-
13 tween Japan and Germany. Therefore she files a
14 solemn protest with the German government.

15 "The Foreign Minister added, that Japan had
16 been forced to make the enclosed declaration, but
17 that she was willing to continue friendship for
18 Germany and was seeking a suitable way." Signed
19 "OTT."
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1 MR. HYDE: I offer in evidence document 4050
2 which relates to the same subject matter.

3 THE PRESIDENT: Admitted on the usual terms.

4 CLERK OF THE COURT: Prosecution's document
5 No. 4050 will receive exhibit No. 506.

6 (Whereupon, the document above referred
7 to was marked prosecution's exhibit No. 506 and
8 received in evidence.)

9 MR. HYDE: I will read the document just
10 mentioned. (Reading)

11 "Berlin, 18 September 1939.

12 "The Japanese Ambassador today had me inform
13 him in detail about the situation, talked about USHI,
14 Take's visit, congratulated us on the progress of the
15 Polish campaign, etc. Finally slightly bashful he came
16 out with the enclosed paper, which is dated 26 August,
17 and regarding which he said the following:

18 "As everybody knows, I dissuaded OSHIMA at
19 the end of August from the idea of making the sharp
20 protest with which he had been ordered by the Japanese
21 Government, in regard to the inconsistency of the German-
22 Russian Non-Aggression Pact with the secret treaty
23 between Germany and Japan. He followed my advice out
24 of consideration for the German Government in the
25 critical phase of that time. But it had not been
possible for him to act directly contrary to his

1 Government. Therefore, he merely telegraphed to his
2 government, saying he had followed its order. But in
3 fact he -- OSHIMA -- had postponed the fulfillment of
4 the demarche till now. He had waited until the end of
5 the Polish campaign, and he believed the step would be
6 not so grave any more now, especially after he had
7 arbitrarily deprived the order from Tokyo of its sever-
8 ity. So he asked me to take note of the enclosed
9 memorandum.

10 "I read the memorandum which is indeed no longer
11 very important, but still accepted it only personally
12 and not officially for information. OSHIMA wishes to
13 explain this matter himself if he meets the Reich
14 Foreign Minister in the near future. Then he will add
15 that this paper could disappear in our documents accord-
16 ing to our judgment. He thought an explanation, es-
17 pecially of a legal nature would not be good nor well-
18 timed.

19 "Finally, I told the Ambassador that his con-
20 ception, as everybody knows, does not agree with ours
21 and I had hoped that the matter was finally concluded.
22 However, I am still ready to prepare the Reichs Foreign
23 Minister for the fact that he -- OSHIMA -- considers
24 it his duty to put a formal end to this matter in some
25 form or other.

"I did not consider it right to refuse the)

1 Ambassador the study of the note since OSHIMA is
2 evidently honestly endeavoring to put an end to the
3 matter.

4 (Signed) "Weizsaecker."

5 I produce prosecution document No. 4034A for
6 introduction in evidence to show that, notwithstanding
7 the temporary set back to the conclusion of a Japanese-
8 German-Italian military alliance, Germany continued
9 her efforts to develop closer German-Japanese relations.
10 The suggestions contained in this and subsequent docu-
11 ments that Germany has mediated for a settlement be-
12 tween Japan and Russia will be considered in a later
13 phase of the case. This document will also give a
14 German appraisal of the accused OSHIMA.

15 THE PRESIDENT: Admitted on the usual terms.

16 CLERK OF THE COURT: Prosecution's document
17 No. 4034A will receive Exhibit No. 507.

18 (Whereupon, the document above referred
19 to was marked prosecution's exhibit No. 507 and
20 received in evidence.)

21 THE PRESIDENT: We will recess now for fifteen
22 minutes.

23 (Whereupon, at 1450, a recess was taken
24 until 1505, after which the proceedings were
25 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. Hyde.

4 MR. HYDE: I will now read prosecution docu-
5 ment 4034 A in evidence as exhibit No. 507.

6 "9 September 1939. Telegram in cipher
7 (Secret Cipher Process) Diplogerma Tokyo, No. 335
8 Exclusively for the Ambassador personally.

9 "These days I had a confidential, detailed
10 discussion with Ambassador OSHIMA regarding the future
11 development of German-Japanese relations. On that
12 occasion I portrayed our standpoint and our aims in
13 the following sense:

14 "Japan's fate is, as ever, linked with Ger-
15 many's fate. If Germany were defeated in this war,
16 an extensive world coalition of Western democracies
17 would quickly form itself which would oppose any ex-
18 pansion of Japan and would in particular again take
19 away her position in China. On the other hand, Japan's
20 position would be ultimately secured by the German
21 victories which we expect with certainty, should Japan
22 maintain the existing relations with Germany and fur-
23 ther enhance them.

24 "As our agreement and understanding with
25 Russia constitutes an important factor in the present

1 balance of powers, this approach is also in the well-
2 understood interest of Japan, which should welcome
3 every strengthening of the German position. This was
4 even more the case as we were quite capable and if de-
5 sired also ready to mediate for a settlement between
6 Japan and Russia. If that should succeed, Japan would
7 be able to freely extend her power in East Asia toward
8 the south and there penetrate further. According to
9 our firm conviction this is the direction in which
10 Japan's vital interests lie. It is quite in accord-
11 ance with the idea of our approach to Russia and I
12 openly emphasized it in Moscow, that we, on our part,
13 are intent on further fostering our relations to Japan.

14 "The idea of close cooperation between Ger-
15 many, Italy and Japan was therefore not in the least
16 dead. Such cooperation, combined with a Japanese-
17 Russian understanding would, according to the world
18 situation direct itself exclusively against England
19 and thus bring the policy of the three powers as well
20 as of Russia into a uniform line which accords with
21 the real interests of all parties concerned. It is
22 then to be considered that the present attitude of
23 Italy has been stipulated in all details and in
24 complete agreement by the Fuehrer and Duce.

25 "It was my intention to first work with

1 emphasis and every possible haste above all else for
2 the realization of an understanding between Japan and
3 Russia and I hoped that now the same political concep-
4 tion would also /prevail/ in Japan. Of course it was
5 important that this should happen quickly so that the
6 mentioned power constellation might yet be realized
7 during our present conflict with England which is
8 decisive for the whole world politics of the future.

9 "OSHIMA agreed to all points of my statement.
10 He said that the Japanese Army doubtlessly appreciates
11 the idea of an understanding with Russia and that
12 therefore there is certainly a prospect of these
13 ideas soon finding acceptance in the Japanese foreign
14 policy. SHIRATORI, who will soon return to Tokyo from
15 his post of Ambassador in Rome, will also work in this
16 idea.

17 "I ask you, on your part, to represent by
18 suitable means the foregoing lines of thought in the
19 discussions there and upon my request to talk quite
20 openly about it with Prince Kanin.

21 "I ask you, furthermore, to express by suit-
22 able means /the fact/ that I deem it to be of great
23 importance for the policy I have in mind that OSHIMA
24 remain Ambassador in Berlin. I had worked very closely
25 with him during the last year and had always openly

1 initiated him into the aims of our policy, so that he
2 was better in the position to represent the Japanese
3 interests in Berlin than a new ambassador. He still
4 enjoys also the complete confidence of the Fuehrer
5 and the German Army. Signed Ribbentrop."

6 I will now read several sentences not here-
7 tofore read from prosecution document 4047, in evi-
8 dence as exhibit No. 498. This is the telegram from
9 Ott for the State Secretary dated Tokyo, 8 September
10 1939. I shall read the first part of the telegram.

11 "For the State Secretary. Secret.

12 "At the reception yesterday of the Foreign
13 Minister ABE, I gave my personal opinion to the Gen-
14 eral, whom I know well, that the continued labours
15 of Ambassador OSHIMA to foster German-Japanese friend-
16 ship would certainly be very valuable; he had the full
17 confidence of the German Government. The Foreign Min-
18 ister declared he would examine the question favorably.
19 The Army, on which I had repeatedly worked similarly,
20 and leading quarters of the Foreign Ministry indi-
21 cated that OSHIMA's position was secure for the present."

22 Prosecution document 4045 is now offered in
23 evidence.

24 THE PRESIDENT: What is it?

25 MR. HYDE: This is a telegram from Woermann

1 to the German Ambassador in Tokyo and relates to cer-
2 tain things they wanted the Japanese Government to do --
3 or the German Government to do for OSHIMA.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution's document
6 4045 will receive exhibit No. 508.

7 (Whereupon, the document above re-
8 ferred to was marked prosecution's exhibit
9 No. 508, and was received in evidence.)

10 MR. HYDE: I will now read document 4045,
11 in evidence as exhibit 508.

12 "Berlin, 27 October 1939. State Affairs -
13 TOP SECRET. Diplogerma; Tokyo. No. 501. Telegram in
14 code. (Secret Cipher Process)

15 "For the Ambassador personally:

16 "The Reich Foreign Minister requests to sup-
17 port in all respects Ambassador OSHIMA, who after his
18 return, will work further for German-Japanese friend-
19 ship. He requests to transmit in code /and/ without
20 changes telegrams, delivered there by OSHIMA to the
21 Reich Foreign Minister personally and to take care of
22 the forwarding of letters addressed to the Reich Foreign
23 Minister, unopened, in so far as they are sealed, by
24 sure and speedy route. Signed Woermann

25 "Before Transmission. To Reich Foreign

1 Minister's Office for information. NOTE: - On instruc-
2 tions of Reich Foreign Minister."
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1 Prosecution documents 4034-B and 4034-C are
2 now offered in evidence to show continued German
3 efforts toward closer Japanese-German collaboration
4 and also to show Ambassador OSHIMA's views and action
5 regarding Japanese expansion in South Asia and the
6 South Seas.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Prosecution's document
9 No. 4034-B will receive exhibit No. 509; and document
10 4034-C will receive exhibit No. 510.

11 (Whereupon, the documents above
12 referred to were marked prosecution's exhibits
13 No. 509 and 510, respectively, and were re-
14 ceived in evidence.)

15 MR. HYDE: I will now read prosecution docu-
16 ment 4034-B, in evidence as exhibit No. 409.

17 (Reading) "Memorandum. The Japanese general,
18 Count TERAUCHI, was received in Zoppot on 20 Septem-
19 ber 18 o'clock by the Reichs Foreign Minister and at
20 18.30 o'clock by the Fuehrer.

21 "I. Conversation with the Reichs Foreign
22 Ministers

23 "At first TERAUCHI expressed his thanks for
24 the invitation to Germany and for the permission to
25 visit the front, and the thanks of the Japanese Army

1 for the understanding attitude of Germany in the China
2 conflict. Then he expressed his hearty congratulations
3 to the German military successes in Poland. The Reichs
4 Foreign Minister regretted not to have been able to
5 welcome the Count in Berlin and Nuremberg, and gave a
6 short description of the course of military events since
7 1 September.

8 "Going over to the German-Japanese relations,
9 the Reichs Foreign Minister said he had talked over
10 these questions with the Fuehrer last night and the
11 Fuehrer had said:

12 "1.) Germany and Japan were the only two major
13 powers between whom there existed no divergence of
14 political interests.

15 "2.) Moreover these two states were, as well
16 as Italy, young nations striving upwards, whom England
17 grudged the advances. The Reichs Foreign Minister
18 added that it was his firm conviction that Japan was
19 being most strongly influenced by Germany's fate. If
20 Germany fared well in Europe, Japan would also fare well
21 in East Asia, but if Germany was badly off, Japan would
22 also be badly off. On the other hand Germany was equally
23 interested in Japan's prosperity in East Asia. He had
24 (already) had this conviction for a long time and still
25 had it today.

1 "3.) Both peoples were soldier nations and the
2 link of the soldierly spirit facilitated the understand-
3 ing.

4 "TERAUCHI was mainly receptive and limited
5 himself to saying that this was also his conviction.

6 "The Japanese Ambassador, the Japanese Military
7 Attache, Mr. STAHLER and the undersigned were present.

8 "II. Conversation with the Fuehrer.

9 "The conversation with the Fuehrer ran quite
10 similarly to that with the Reichs Foreign Minister. In
11 connection with TERAUCHI's congratulations, the Fuehrer
12 talked more extremely about the reasons for Germany's
13 advance against Poland, about the teamwork of the various
14 weapons in the Polish war and about the success of the
15 German Army. Regarding German-Japanese relations the
16 Fuehrer said the same as the Reichs Foreign Minister,
17 almost word by word.

18 "The Reichs Foreign Minister and those men-
19 tioned under I were present.

20 "III. Conversation of the German Foreign
21 Minister after dinner.

22 "At 7:30 o'clock the Reichs Foreign Minister
23 gave a dinner for Count TERAUCHI, at which also Major
24 General KEITEL took part. After the meal the German
25 Foreign Minister again took up the political conversation

1 with TERAUCHI. He enlarged upon the statements under
2 No. I above, and then spoke about the German-Russian
3 Non-Aggression Pact. He said that the necessity of a
4 German and a Japanese understanding with Russia had
5 been clear to him for a long time, and that he would
6 have strived for it even in the case of the conclusion
7 of a German-Japanese-Italian Pact. This he had already
8 said to OSHIMA more than a year ago and he ~~OSHIMA~~/
9 had, probably, reported it to Tokyo. In the meantime
10 he as well as OSHIMA had strained all efforts to bring
11 about the German-Japanese-Italian Pact. That it did not
12 succeed was regrettable, but could not be helped. Now
13 Germany on her part had to seek the understanding with
14 Russia by herself, but he was of the conviction that this
15 understanding would also have a favorable effect on
16 Japan. This he had already told the press in Moscow.
17 He had also talked with Stalin about this question, who
18 had answered, 'If the Japanese desire war, they can have
19 war; if they desire an understanding, they can have that,
20 too.' The situation of the Japanese interests, which
21 the Reichs Foreign Minister again depicted as in No. I,
22 remained the same. TERAUCHI confirmed again that he
23 shared this opinion fully. Ambassador OSHIMA, who,
24 before dinner, and until now had only listened, now said
25 he believed that Japan, especially the Japanese Navy,

1 would be perfectly ready for an advance in South East
2 Asia, i.e., also against Hongkong. He himself had also
3 proposed this by telegraph. The Reichs Foreign Minister
4 asked him, 'How far can you go?' OSHIMA replied that he
5 believed that Japan could go rather far in South Asia.
6 He did not go into details concerning a military advance.
7 He was of the opinion that one should try to tear the
8 Netherlands from England and to propose a non-aggression
9 pact to them. Then one could, at the same time, reach
10 an agreement with the Netherlands which would allow Japan
11 to exploit raw materials of the Netherlands Indies 'in
12 an entirely decent way.' Japan needed tin, rubber and
13 oil from the Netherlands Indies, cotton from British
14 India, and wool from Australia. If it got all this it
15 would be self-sufficient and very strong. OSHIMA's
16 statements were very unprecise and uncertain. They only
17 put forth his personal opinion. The Reichs Foreign
18 Minister acknowledged these statements without comment-
19 ing on them. He did also not make any proposals on his
20 part, but let it be understood in his further statements
21 that Germany was quite ready and willing to collaborate
22 with Japan against England.

23 "OSHIMA did not mention the forming of a new
24 Chinese central government.

25 "Berlin, 25 September 1939.

1 "Herewith presented to the State Secretary
2 according to instructions.

3 "(Signed) KNOLL."

4 I now read prosecution document 4034-C, in
5 evidence as exhibit No. 510.

6 (Reading) "Memorandum. During the trip to
7 the East Front, Count TERAUCHI kept a very reserved
8 attitude towards political conversations. But one remark
9 was noteworthy: On the evening of 23 September, Lieute-
10 nant General Count BROCKDORFF and I talked with TERAUCHI
11 about his experiences in the China war and a few military
12 questions connected with it. I asked Count BROCKDORFF
13 of his own accord, as a soldier, to ask: 'Wouldn't it
14 then be much smarter from the Japanese standpoint to end
15 the prospectless war with China by a bearable settlement
16 and to utilize the strength of the Japanese Army and fleet
17 more in the south, where, in the economic field, there
18 are much greater successes to be gained?' Count
19 TERAUCHI answered as if he regarded this as a consequence
20 of his statements: 'Certainly that would be much better.'
21 While I had the impression that in TERAUCHI's answers to
22 the statements of the Reichs Foreign Minister and of the
23 Fuehrer he only consented in a polite way to evade a
24 political conversation, I had, at this opportunity, the
25 impression that the Count had really said what he meant.

1 "Berlin, 25 September 1939.

2 "Herewith presented to the State Secretary.

3 "(Signed) KNOLL."
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1 THE PRESIDENT: Who do you say made that
2 statement or that memorandum?

3 MR. HYDE: I didn't hear you, your Honor.

4 THE PRESIDENT: Who do you say made that
5 statement?

6 MR. HYDE: That was Count TERAUCHI.

7 THE PRESIDENT: Who was reporting Count
8 TERAUCHI, I think they call him; is it Knoll:
9 K-n-o-l-l?

10 MR. HYDE: He seems to be quoting Knoll,
11 your Honor.

12 THE PRESIDENT: Well, it is signed "Knoll,"
13 but maybe --

14 MR. HYDE: I present prosecution document
15 4051 for introduction in evidence.

16 THE PRESIDENT: What is it? I want to know
17 what it is before I admit it.

18 MR. HYDE: This is a telegram, your Honor,
19 signed by Ott and Stahmer, addressed to the Secre-
20 tary of State, under date of 23 February 1940, re-
21 citing conditions that they found after Stahmer's
22 arrival in Japan.

23 THE PRESIDENT: Admitted on the usual terms.

24 CLERK OF THE COURT: Prosecution's document
25 4051 will receive exhibit No. 511.

(Whereupon, prosecution's exhibit
No. 511 was received in evidence.)

MR. HYDE: I will now read prosecution's
document No. 4051 in evidence as exhibit No. 511.
(Reading)

"Top Secret!

"Telegram (Secret Cipher Process)

"Tokyo, 23 February 1940

"For the State Secretary personally.

"After my arrival here I found such Japanese already known to me as OSHIMA, SHIRATORI, TERAUCHI, ISHI, etc. in an unchanged friendly attitude and ready for every support. I have the following impression of the political situation: at present domestic political difficulties mainly occupy all groups and parties.

"In foreign politics the government is trying not to be led into the European confederation. Friendly attitude towards England and America. Before the military actions in Europe have any effect, no important decisions are to be expected.

"The influence of the Army, greatly weakened since the last summer session, is already growing again. Further increase may be counted on. Well known pro-German officials of the Foreign Ministry

1 and corresponding officers of the General Staff and
2 the War Ministry have, for several months, been sys-
3 tematically transferred to foreign posts, i.e., China.
4 A cancellation of this measure is being pursued
5 here with all means.

6 "I got into contact with the circles in
7 question and agreed to continue the work after my
8 return from America.

9 "Public opinion is, to a large extent, pro-
10 German and likewise anti-British. Consequently, a
11 favorable basis for our political aims. At present
12 public opinion is not yet too active against court
13 and financial circles. It would be advantageous if
14 Russian readiness for an understanding with Japan
15 could be made more strongly noticeable. Apart from
16 an improvement of the political atmosphere, the en-
17 deavors for an improvement of a German-Japanese ex-
18 change of goods via Siberia, which are under way,
19 could be favorably influenced hereby."

20 s/"STAMMER

21 s/OTT"
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1 THE PRESIDENT: Mr. Tavenner.

2 MR. TAVENNER: The next subdivision of the
3 subject Tri-partite Pact is Conclusion of the Tri-
4 partite Pact. During the period of negotiations
5 for a Tri-partite military alliance the following
6 historical events of which the Tribunal has taken
7 judicial notice by Order No. 400 occurred in East
8 Asia and the South Seas:

9 On 30 March 1940, the Wang Ching-wei Govern-
10 ment was proclaimed in Nanking, and the United
11 States refused to recognize this regime.

12 On 12 January 1940, the Japanese Government
13 informed the Netherlands Government of the abroga-
14 tion of the Japanese-Netherlands Arbitration Treaty.

15 On 20 March 1940, the Japanese Consulate
16 was newly opened at Noumea, capitol of New Caledonia.

17 I respectfully request that the Tribunal
18 take judicial notice of the Japanese seizure of
19 Hainan Island, a French possession off the coast of
20 Indo-China on 10 February 1939, the basis for which
21 is a statement in the Japan Year Book, 1941-42 at
22 page 106 in the following language:

23 "1939, "Hainan Island surprised by the
24 forcible landing of Japanese forces, February 10."

25 MR. LOGAN: If the Tribunal please, we have

1 no objection to the Court taking judicial notice of
2 what appears in the Year Book, "Hainan Island sur-
3 prised by the forcible landing of Japanese forces,
4 February 10," but we do take objection to the con-
5 clusions which counsel for prosecution has drawn
6 from that statement.

7 THE PRESIDENT: We take judicial notice of
8 the taking by the Japanese and of the manner of tak-
9 ing and of the time of taking.

10 MR. LOGAN: If the Tribunal please, I think
11 what we have in mind is this: That the Tribunal take
12 judicial notice of the fact that this statement ap-
13 pears in the Year Book.

14 THE PRESIDENT: We could not take judicial
15 notice of that. We take judicial notice of the
16 historical fact itself regardless of the Year Book.

17 Dr. KIYOSE.

18 DR. KIYOSE: I wish to ascertain whether
19 the island that the prosecutor just mentioned is
20 Hainan Island or the Shinnan Islands or the Spratley
21 Islands.

22 MR. TAVENNER: The island that I refer to
23 is, just as I stated, the Hainan Island and not the
24 Spratley Islands.

25 I wish now to offer in evidence --

1 DR. KIYOSE: The Hainan Island is not in
2 front of French Indo-China. It does not face
3 French Indo-China; it faces the Chinese province of
4 Kwantung.

5 THE PRESIDENT: For the time being, we
6 are not concerned with its exact location. We take
7 judicial notice of the fact, as I have stated al-
8 ready.

9 MR. TAVENNER: I now wish to offer in
10 evidence prosecution document 829-B relating to the
11 Japanese seizure of the Spratley Islands.

12 THE PRESIDENT: We judicially notice the
13 fact. You have not mentioned the time for the
14 purposes of the record.

15 MR. TAVENNER: March 31, 1939 is the date
16 of the seizure of the Spratley Islands -- the date
17 of the announcement of the seizure of the Spratley
18 Islands. (Reading)

19 "Official Announcements of Foreign Office,
20 Vol. 18"

21 "STATEMENT OF THE FOREIGN OFFICE CONCERNING THE
22 ADMINISTRATIVE JURISDICTION OVER SHINNAN GUNTO.

23 March 31, 1939.

24 "Shinnan Gunto (or the Spratley Islands)
25 are a group of small reefs lying in the South China
Sea, off the Coast of French Indo-China. These reefs

1 had long been known as ownerless. However, in 1917
2 Japanese began, before the nationals of any other
3 country, to embark upon the economic development of
4 the reefs, which has continued ever since, by invest-
5 ing a considerable amount of capital and erecting
6 various permanent establishments. The Japanese
7 Government, officially recognizing the activities
8 of these nationals, have on several occasions since
9 sent warships to the reefs and been giving them
10 various aids as occasion demanded. But the absence
11 of administrative jurisdiction over the reefs has
12 caused not only inconveniences with regard to the
13 protection and regulation of the lives, property and
14 enterprises of the Japanese nationals there, but has
15 been liable to give rise to unnecessary disputes
16 with France. Accordingly, the Japanese Government,
17 in order to eliminate such inconveniences and dis-
18 advantages, have decided to place the reefs under the
19 jurisdiction of the Government - General of Taiwan,
20 and having published the fact under date of March 30,
21 1939, the Vice Minister for Foreign Affairs, Mr. Renzo
22 Sawada, notified the French Ambassador in Tokyo, Mr.
23 Charles Arsene-Henry, to this effect on March 31."

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1 I regret that I did not await the marking
2 of that document in evidence and that it has not
3 actually been admitted in evidence.

4 THE PRESIDENT: Are you tendering it?

5 MR. TAVENNER: Yes, sir.

6 THE PRESIDENT: Admitted on the usual
7 terms.

8 CLERK OF THE COURT: Prosecution's document
9 No. 829-B will receive exhibit No. 512.

10 (Whereupon, prosecution's exhibit
11 No. 512 was received in evidence.)

12 MR. TAVENNER: Prosecution document 865 is
13 offered in evidence. It is the treaty between Japan
14 and Thailand concerning the continuance of friendly
15 relations and mutual respect of each other's terri-
16 torial integrity, concluded 12 June 1940. As it is
17 desired at this time only to show the fact of such
18 a treaty, its provisions will not be read.

19 THE PRESIDENT: Admitted on the usual terms.

20 CLERK OF THE COURT: Prosecution's document
21 No. 865 will receive exhibit No. 513.

22 (Whereupon, prosecution's exhibit
23 No. 513 was received in evidence.)

24 MR. TAVENNER: During the period of nego-
25 tiations with a Tri-partite military alliance, the

1 following historical events, of which the Tribunal
2 has taken judicial notice by Order No. 400, occurred
3 in Europe:

4 On 1 September 1939, Germany invaded
5 Poland.

6 On 9 May, 1940, Germany invaded Belgium,
7 Luxembourg, and the Netherlands.

8 On 10 June, 1940, Italy declared war on
9 Britain and France.

10 On 17 June 1940, France asked armistice
11 terms of Germany.

12 I tender in evidence prosecution document
13 4030. This is a telegram, from the German Ambassa-
14 dor, to Germany.

15 THE PRESIDENT: "To Tokyo." Admitted on
16 the usual terms.

17 CLERK OF THE COURT: Prosecution's document
18 No. 4030 will receive exhibit No. 514.

19 (Whereupon, prosecution's exhibit
20 No. 514 was received in evidence.)

21 MR. TAVENNER: At the time this telegram
22 was sent by the German Ambassador in Tokyo, the
23 accused HATA was War Minister in Japan. (Reading)
24 "Secret Telegram No. 255 of 23.3.40
25 "Tokyo, 23 March 1940 09.45

1 "Arrived, 23 March 1940 17.20

2 "The political development of the last few
3 days reveals a certain stiffening between Japan and
4 England, America, which has come to light in an ob-
5 vious move of protest by the British Ambassador
6 against the formation of the Central Government, the
7 sudden announcement of the American Ambassador's pro-
8 ceeding to America, and a debate in the Diet. Diet
9 members from several parties simultaneously pressed
10 the Foreign Minister to a strengthening of contact
11 with the friendly countries - Germany and Italy. The
12 Foreign Minister emphasized the friendly relations
13 existing towards the Axis powers, but described the
14 solution of the China conflict as a most pressing prob-
15 lem, which necessitated the pursuit of a policy of
16 non-intervention.

17 "Noteworthy is the report of strong words by
18 the spokesman of the army in the Diet and statements
19 by the War and Navy Ministers that Japan's progress
20 in China cannot be stopped by the obsolete Nine Power
21 Treaty. This attitude has obviously been influenced
22 by the opposition of the Anglo-Saxon powers to the New
23 Chinese Central Government.

24 "The same message is being sent to Shanghai
25 and Hsinking."

Signed "OTT"

1 I offer in evidence prosecution's document
2 4026-A, a telegram from the German Embassy in Tokyo,
3 for the purpose of showing Germany's interest in a
4 change of Cabinet.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 4026-A will receive exhibit No. 515.

8 (Whereupon, prosecution's exhibit
9 No. 515 was received in evidence.)

10 MR. TAVENNER: (Reading)

11 "Telegram (Secret Cipher Process)

12 "TOKYO: 10 May 1940

13 "As fast as possible

14 "For the Reich Foreign Minister

15 "Numerous conversations during my fourteen
16 day stay in Tokyo with authoritative personalities
17 in political, military, naval and economic spheres
18 give the following picture:

19 "The YONAI-ARITA government is striving
20 for further agreement with England and America. I
21 consider the realization of this thoroughly unlikely
22 in view of America's stubborn attitude, and the mark-
23 edly stronger Anti-British opinions in the Army, the
24 people and some economic circles. The most recent
25 German successes have created a great impression here,

1 and have decreased England's importance in the Far
2 East. The Russian ambassador expressed to me his
3 readiness for a Russo-Japanese agreement, but stressed
4 the mutual distrust. Our Embassy is endeavoring to
5 advance personal feelers /FUEHLUNGNAHME/ between the
6 Russian Embassy and influential Japanese so as to
7 overcome this.

8 "As regards domestic politics, difficulties
9 for the cabinet, whose economic policies are inade-
10 quate, are increasing again. The conference of pro-
11 vincial governors now in session confirms the wide-
12 spread distress and discontent. The eventual new
13 government which, it is hoped, will be under the
14 leadership of Prince KONOYE, of the group friendly to
15 us, will have to restrict itself, first of all to the
16 solution of the China conflict, and urgent domestic
17 relief measures.

18 "With regard to foreign policy, apart from
19 an eventual cabinet change, it is to be presumed that
20 the tension with England will increase or at least
21 continue. The same holds good for relations with
22 America, both sides are seeking to avoid their leading
23 to war."

24 s/"STAHMER

25 s/OTT"

1 I present for introduction in evidence
2 prosecution's document 4027-A from which I will read
3 an excerpt beginning at the bottom of page 1. It is
4 a telegram from the German Embassy in Tokyo to Ber-
5 lin.

6 THE PRESIDENT: Admitted on the usual
7 terms.

8 CLERK OF THE COURT: Prosecution's document
9 No. 4027-A will receive exhibit No. 516.

10 (Thereupon, prosecution's exhibit
11 No. 516 was received in evidence.)

12 MR. TAVENNER: Telegram, "Secret Cipher
13 Process, Tokyo, 12 June 1940. (Reading)

14 "The embassy is still endeavoring to stir
15 up Japanese ill feeling against America by influenc-
16 ing the press and leading political personalities
17 in a way deemed proper. I myself have expressed the
18 thought in many discussions with leading political
19 personalities as for example KONOYE, SUETSUGU, and
20 KUHARA that the interests and activity of America ...
21 (one group of words garbled) in the Pacific area and
22 therefore a conflict between Japan and America is
23 in the long run unavoidable.

24 "In confidential cooperation with the em-
25 bassy, ambassadors OSHAIR and SHIRATOUT/ OSHIMA and

1 SHIRATORI/ and circles closely connected with them
2 are operating in the same direction."

3 THE PRESIDENT: We will adjourn now until
4 half-past nine tomorrow morning.

5 (Whereupon, at 1600, a recess was
6 taken until Tuesday, 24 September 1946 at
7 0930.)

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