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OFFICE OF U. S. CHIEF OF COUNSEL
APO 403 U. S. ARMY

PLANNING COMMITTEE
17 November 1945

RESTRICTED

The Planning Committee met at 1115 hours, 17 November 1945, in Room 316. Present were:

Robert G. Storey, Chairman
Maj. Gen. William J. Donovan
Mr. Sidney S. Alderman
Mr. Thomas J. Dodd
William H. Baldwin, Secretary

Colonel Storey reported to the meeting on the results of the Court session at 1000 hours. It was decided by the Tribunal that MARTIN BORMANN would be tried in absentia and that a counsel would be named to represent him. No decision was announced on the KRUPP motion. Colonel Storey also mentioned the receipt of a document from the French Delegation, now being translated, which moves that an indictment be filed against ALFRIED KRUPP.

With reference to the analysis of the evidence relating to Counts III and IV requested of the Section Chiefs, a memorandum from Colonel Hollers and a memorandum from Colonel Taylor were reviewed by the Committee. A majority of the Committee was opposed to turning over in toto to the French and Soviet Prosecutors the evidence in our possession having to do with the Einsatzstab Rosenberg but it was agreed that the case on Plunder of Art Objects should be presented by the U. S. for and on behalf of all four nations.

Regarding the charge of Waging of Ruthless War, the Committee agreed with the recommendation of Colonel Hollers that the French and Soviet Prosecutors offer certain phases of the case which have been marked in copies of the brief. Regarding Persecution of the Jews, the Committee agreed that the U. S. should present all material on that charge, but that it should be done on a joint presentment basis, as with the Einsatzstab Rosenberg.

Regarding Crimes Committed in Concentration Camps, it was agreed that the U. S. will present this case for and on behalf of the other four nations, but will leave to the other nations the responsibility or proving individual atrocities and acts. Regarding Germanization of Occupied Territories, it was the Committee's decision that no conclusions would be drawn or commitments made until the briefs on that

subject, now being completed, are submitted.

With reference to the decision to turn over our briefs to the French and Soviet Delegations, it was decided that Major Baldwin show draw up a memorandum addressed to Mr. Alderman stating the conditions under which the briefs are being delivered to the French, and a similar memorandum to Colonel Taylor for his guidance in dealing with the Soviet Prosecutor.

A request from Section 1 for the Committee's recommendation on the use of a confidential diplomatic report by Ambassador Messersmith was reviewed. It was the Committee's judgment that the document should in no way be relied upon as evidence.

At the opening of the discussion on Order of Proof, Colonel Storey was asked to ascertain through conference with Mr. Justice Jackson whether he intends to present the case on the Common Plan or Conspiracy (prepared by Section 1) and, if not, whom he would recommend to present it. It is the Committee's recommendation that the case should be presented by one of the Senior Counsel, and that it be the first of the charges heard; following that, the Aggressive War and Economic Aspects of the Conspiracy cases would be heard, in that order.

The Committee further agreed that the Criminal Organizations phase should be introduced next, and as particular individual defendants are involved as a consequence of the presentation of this phase, that the evidence against them be offered. Following Criminal Organizations, the cases against the Individual Defendants will be presented, and those not covered under the preceding phase will be charged.

Colonel Maen was asked to meet with the Committee at 1630 hours for a discussion of the part to be played by the witnesses at the trial. The meeting adjourned at 1250 hours.

Distribution:

Mr. Justice Jackson
Mr. Robert G. Storey
Maj. Gen. William J. Donovan
Mr. Sidney S. Alderman
Mr. Thomas J. Dodd
Major William H. Baldwin
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