

54.03

OFFICE OF U. S. CHIEF OF COUNSEL  
FOR THE PROSECUTION OF AXIS CRIMINALITY

Notes of Staff Meeting, 15 October 1945

PRESENT: Mr. Justice Jackson.  
Maj. Gen. Donovan. ✓  
Colonel Amen.  
Colonel Gill.  
Colonel Storey.  
Colonel Taylor.  
Colonel Wheeler.  
Lieutenant Demas.

1. Mr. Justice Jackson reported the developments leading up to the decision by the Tribunal to postpone the filing of the Indictment until Tuesday, 18 October, in order to give the Russians time to make the corrections which they have requested in their part of the Indictment.

2. The differences between the German translation offered by the British and that offered by Mr. Albrecht, of the American Staff, have been resolved to the satisfaction of the British by adopting Mr. Albrecht's text.

3. The Court Staff is recommending that officials appointed by the Court should serve the Indictment on the defendants, and at the same time discuss with them the question of selection of counsel. This suggestion may be based upon inadequate realization of the difficulties of communication and of locating individuals.

4. The preparation of the case has entered a new phase with the filing of the Indictment. The proofs must be fitted to the allegations of the Indictment. Any surplus personnel must be let go. Any general drive in the field for additional evidence must be stopped, and we must assume we can proceed with what we already have.

5. The division of the case among the four Powers, under which the United States leads off on Count I and parts of Count IV, means practically that we have responsibility for the entire case and set the tone and pace for it. The organization must have flexibility to allow for sickness and other contingencies. All the trial men should be generally familiar with the entire case. Trial briefs should be such as to enable any trial counsel to carry on with reasonable notice. We must now funnel together all the methods of proving the same things: documents, admissions, films, and oral testimony.

6. We should set up a reviewing staff, which is not necessarily the same as Trial Counsel, to decide on the proportions to be given to each part of the case, how much material involves crimes in France and in Russia, and other questions of strategy. On the assembling of material to be fed to the reviewing group, the recommendation and organization sheets prepared by Colonel Storey, Colonel Wheeler, and Major Wallis at the Justice's request are now to be circulated for comment at the upper level.

7. With respect to the method of presentation of evidence, the tendency of the trial runs so far submitted is to contain too much argument and to assume a background knowledge upon which both Counsel and Court will need instructions. Sheets showing organization set-ups should be used to the greatest extent. A glossary of terms should be made up.

8. The British and the Justice are recommending that each Power make its opening and present its case in turn. This would permit the Americans to begin, to make their opening and presentation of the evidence first and to acclimatize the French and Russians to our methods.

9. On the assignment of personnel, Colonel Gill suggested that in view of the possibility that each section head, when appointed, may naturally desire to retain as many as possible of his own staff, the Executive should participate in the interest of keeping the staff as small as possible. General Donovan suggested the establishment of priorities for this purpose. The Justice stated that no additions were to be made to the staff, except to fill a specific need. Colonel Gill reported that all current requisitions for personnel have been cancelled, except for reporters and translators, who are actually on the way.

10. Colonel Taylor pointed out that the prosecutors had agreed to submit, by 22 October, a list of documents which each country expected to use at the trial. In view of the postponement of the filing of the Indictment, he will ask Mr. Shea to request a postponement (Mr. Shea later reported that the British had also suggested a postponement, at least until 25 October, and that he will suggest postponement until 29 October). It was the consensus that the American list should be short and carefully combed, even though it is stated to be neither inclusive nor exclusive. Col. Taylor stated that the Prosecutors' agreement as to documents did not include film. It was suggested that notices of showings of films be given to the representatives of the other Powers so as to avoid repeated showing.

11. The Justice with respect to turning over documents to our associates pointed out that there were three possibilities: First, to put in all our evidence, including the conspiracy; second, to turn over evidence bearing on Counts II, III, and IV to our associates for them to use in their presentation; third, to reserve such evidence and put it in ourselves as part of our case on Counts II, III, and IV. Colonel Taylor thought the French would object to this method, but that the Russians would not mind. It was the consensus of opinion that we should not in general turn over our material to our associates but reserve it for presentation ourselves.

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