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

PLANNING COMMITTEE
16 November 1945

RESTRICTED

The first meeting of the Planning Committee was held at 1630 hours in Room 316, 16 November 1945. Present were:

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

Colonel Storey recommended the appointment of Major Baldwin as Executive Secretary of the Planning Committee. The nomination was unanimously approved by all present.

All present were notified of the open session of the Court to be held at 1000 hours, 17 November, to consider whether BORMANN should be dropped from the defendants or whether he should be tried in absentia. All Prosecutors were agreed that there has been no change in his status since the Berlin meeting and all but the Soviet Prosecutor have agreed that the Court may proceed as it sees fit. The Soviet Prosecutor said that no action would be taken until after a discussion with General Rudenko.

The members of the Committee were asked for their opinions on the following questions:

(1) Should attorneys be appointed to represent the criminal organizations?

(2) If so, would you recommend the attorneys at present representing defendants charged with complicity in such criminal organizations?

It was agreed by all that the first question should be answered in the affirmative. The second question was also affirmatively decided, in view of the time element, though it was suggested that it would be preferable to have the organizations represented by other attorneys who could devote their full time to that task.

Colonel Storey advised the meeting that the hours of the Court would be as follows:

Mon.	1000 - 1230; 1400 - 1630
Tues.	" "
Wed.	" "
Thurs.	" "
Fri.	" "
Sat.	1000 - 1230
Sun.	No session

Lt. Col. Gurfein and Lt. (jg) Keltzer presented to the meeting their views upon the line of demarcation to be established between the U. S. and French cases and the U. S. and Soviet cases insofar as economic spoliation and slave labor aspects were concerned. It was generally concluded after discussion that the appropriate method of settlement of the line of demarcation, since difficulties were evident, was by conversations between the Nations involved. The main point for determination within the policy announced by Justice Jackson of retaining proof of the U.S. case was as to what amount of material already gathered by the U. S. should be turned over to the French and Soviet Delegations to be used in proof of the cases of the latter two Nations. A report to the Planning Committee on the results of these conferences was requested. Colonel Storey thereupon left for a Court session.

In anticipation of a question by the defense counsel of the legality of certain portions of the Indictment, it was the Committee's decision that a brief on ex post facto should be prepared. In this connection, Major Baldwin was asked to arrange for such a brief and the transportation from Frankfurt to Nurnberg of a set of legal reference volumes,

A memorandum from Colonel Wheeler and a memorandum from Lt. Col. Kaplan concerning the problems in connection with the presentation of the Common Plan were reviewed by the Committee. Colonel Wheeler suggested that the proof be drastically condensed and presented briefly by argument and submission of documents. He further suggested Major Frank Wallis to present the case. Lt. Col. Kaplan excepted to the choice of Major Wallis, re-affirming his position that all presentation should be in the hands of a few Senior Trial Counsel. It was decided that no one should be named to present the case until an opinion had been obtained from Mr. Justice Jackson concerning his participation in Count I.

The Committee discussed the morale problem of the defense counsel; it was agreed that they must be made to feel that they are being fairly dealt with. Since their funds are frozen, it was thought advisable to take up informally with General Mitchell the matter of assuring the defense lawyers of a certain fee and of proper food.

With regard to the arrangements being made by General Donovan through the defense counsel with certain defendants (e.g., GOERING and SCRACHT) for the furnishing of specific information, it was the Committee's opinion that the Prosecutors of the other Nations should be advised thereof, and also of any developments that may occur. Major Baldwin was asked to work out a channel through which this information could be supplied to the other Nations. The suggestion was made that formal notice might be given by Mr. Justice Jackson to the other Chief Prosecutors but that they should be informally notified in the meantime.

After scheduling a meeting for 1100 hours, 17 November 1945, for a discussion on Order of Proof, the meeting adjourned at 1740 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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