

### III. STATEMENT OF THE TRIBUNAL ON THE ORDER OF TRIAL AND RULES OF PROCEDURE, 9 DECEMBER 1946\*

PRESIDING JUDGE BEALS: I have a statement which I desire to make for the benefit of the prosecution, defendants, and all concerned: Before opening the trial of Case No. 1, *The United States of America against Karl Brandt, et al.*, there are certain matters which the Tribunal desires to call to the attention of the counsel for the prosecution and the counsel for the defendants.

1. The prosecution may be allowed, for the purpose of making the opening statement in this case, time not to exceed one trial day. This time may be allocated by the chief prosecutor, between himself and any of his assistants, as he desires.

2. When the prosecution has rested its case, defense counsel will be allowed two trial days in which to make their opening statements, and which will comprehend the entire theory of their respective defenses. The time allocated will be divided between the different defense counsel, as they may themselves agree. In the event the defense counsel cannot agree, the Tribunal will allocate the time, not to exceed 30 minutes to each defendant.

3. The prosecution shall, not less than 24 hours before it desires to offer any record or document or writing in evidence as part of its case-in-chief, file with the Defense Information Center not less than one copy of such record, document, or writing for each of the counsel for defendants, such copies to be in the German language. The prosecution shall also deliver to the Defense Information Center at least four copies thereof in the English language.

4. When the prosecution or any defendant offers a record, document, or any other writing, or a copy thereof, in evidence, there shall be delivered to the Secretary General in addition to the original document or other instrument in writing so offered for admission in evidence, six copies of the document. If the document is written or printed in a language other than English there shall also be filed with the copies of the document above referred to six copies of an English translation of the document. If such document is offered by any defendant, suitable facilities for procuring English translations of that document shall be made available.

5. At least 24 hours before a witness is called to the stand, either by the prosecution or by any defendant, the party who desires to inter-

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\*Tr. pp. 9-11.

rogate the witness shall deliver to the Secretary General an original and six copies of a memorandum which shall disclose: (1) the name of the witness; (2) his nationality; (3) his residence or station; (4) his official rank or position; (5) whether he is called as an expert witness or as a witness to testify to facts, and if the latter, a prepared statement of the subject matter on which the witness will be interrogated. When the prosecution prepares such a statement in connection with the witness whom it desires to call, at the time of the filing of this statement, two additional copies thereof shall be delivered to the Defense Information Center. When a defendant prepares such a statement concerning a witness whom it desires to call, the defendant shall at the same time as the copies are filed with the Secretary General deliver one additional copy to the prosecution.

6. When either the prosecution or a defendant desires the Tribunal to take judicial notice of any official Government documents or reports of the United Nations, including any action, ruling or regulation of any committee, board, or counsel, heretofore established by or in the Allied Nations for the investigation of war crimes, or any record made by, or the findings of, any military or other tribunal, this Tribunal may refuse to take judicial notice of such documents, rules, or regulations, unless the party proposing asks this Tribunal to notice such documents, rules, or regulations judicially, and places a copy thereof in writing before the Tribunal.

This Tribunal has learned with satisfaction of the procedure adopted by the prosecution with the intention of furnishing to the defense counsel information concerning the writings or documents which the prosecution expects to offer in evidence for the purpose of affording the defense counsel information to help them prepare their respective defense to the indictments. The desire of the Tribunal is that this be made available to the defendants so as to aid them in the presentation of their respective defense.

The United States of America having established this Military Tribunal I, pursuant to law, through properly empowered military authorities, and the defendants having been brought before Military Tribunal I pursuant to the indictment filed 25 October 1946 in the Office of the Secretary General of the Military Tribunal at Nuernberg, Germany by an officer of the United States Army, regularly designated as Chief of Counsel for War Crimes, acting on behalf of the United States of America, pursuant to appropriate military authority, and the indictment having been served upon each defendant for more than 30 days prior to this date, and a copy of the indictment in the German language having been furnished to each defendant and having been in his possession more than 30 days and each defendant having had ample opportunity to read the indictment, and having regu-

larly entered his plea of "not guilty" to the indictment, the Tribunal is ready to proceed with the trial.

This Tribunal will conduct the trial in accordance with controlling laws, rules, and regulations, and with due regard to appropriate precedents in a sincere endeavor to insure both to the prosecution and to each and every defendant an opportunity to present all evidence of an appropriate value bearing upon the issues before the Tribunal; to this end, that under law and pending regulations impartial justice may be accomplished.

The trial, of course, will be a public trial, not one behind closed doors; but, because of limited facilities available, the Tribunal must insist that the number of spectators be limited to the seating capacity of the courtroom. Passes will therefore be issued by the appropriate authorities to those who may enter the courtroom. The Tribunal will insist that good order be at all times maintained, and appropriate measures will be taken to see that this rule is strictly enforced.

For the information of all concerned, the Tribunal announces that hearings will be held each day this week commencing at 9:30 o'clock through Friday. The Tribunal will reconvene at 9:30 o'clock, Monday, 16 December 1946, and will hold sessions every day of that week including Saturday, on which day, however, the Tribunal will recess until 9:30 o'clock, Thursday, 2 January 1947, when the Tribunal will convene at the usual time.