

Exhibit 2694

8

DD No. 1586

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE UNITED STATES OF AMERICA, et al.

.. vs ..

ARAKI, Sadao, et al.

AFFIDAVIT of Nishimura Kumao

Having first duly sworn an oath as on the attached sheet, and in accordance with the procedure followed in my country, I heroby depose as follows:

I was in the office of the Chief of the First Section of the Treaty Bureau from October 1940 to March 1942. The First Section of the Treaty Bureau had charge of business concerning the ratification and the promulgation of treaties. I was accordingly concerned, as the competent chief of section, with the procedure for Imperial sanction and promulgation of the Protocol concerning the extension of the validity of the Pact against the Communist International of 25 November 1941.

The secret agreement attached to the Pact against the Communist International was abrogated simultaneously with the signing of that Protocol. This step was taken in accordance with the proposal of the Japanese Government, and the draft which was adopted of the secret official notes exchanged for that purpose was also submitted by the Japanese Foreign Ministry. These official notes were exchanged between the Japanese Ambassador to Germany and the German Foreign Minister, in Berlin, on 25 November 1941, simultaneously with the signing of the above-mentioned protocol, after having been referred to the Privy Council for deliberation and having received the Imperial sanction together with the protocol, in accordance with the domestic law of Japan. According to custom, these official notes, together with the original letter of the German Foreign Minister, were to be sent to Tokyo by mail or carried by some member of the Embassy staff who was to return to Japan, and to be preserved in the Foreign Ministry. But, Europe was already the scene of hostilities then, and it was impossible to get them to Tokyo.

Defense Document No. 1571 is a copy of the draft notes to be exchanged, which were referred to the Privy Council for deliberation, and the only points in which they differ from the originals exchanged at Berlin is that they do not bear the full date of the actual exchange, and that the note received from the German Foreign Minister is in German, leaving the date of the 25th not filled in.

I remember the above facts clearly, as I myself drafted the notes to be exchanged, and transacted both the dispatch and the receipt of the telegrams concerning the proceedings taken in this connection at Berlin.

It was stipulated in Article III of the secret agreement attached to the Pact against the Communist International that the secret agreement should be in effect for the same period of time as the Pact itself. Accordingly, when the term of duration of the Pact was extended, the duration of the secret agreement would, unless it was otherwise provided, automatically have been extended. This is the reason for the exchange of notes referred to above.

It was the German Government which, in October 1941, proposed the extension of the term of the Pact against the Communist International. Even before that, during Foreign Minister Matsuoka's visit to Berlin in March of the same year, Foreign Minister Ribbentrop had expressed his desire for such prolongation, to which Mr. Matsuoka gave a favorable answer. Mr. Matsuoka so stated, as I recollect soon after his return home from Europe, in the course of his explanation of the Japan-Soviet Neutrality Pact to a committee of the Privy Council to which that Pact was referred for ratification.

On this 15th day of May 1947 at Tokyo.

Nishimura Kumao

(Signed)

(Seal)

Sworn to and subscribed before me on the above mentioned date at

Nishi Haruhiko

(Signed)

(Seal)

Witness

OATH

In accordance with my conscience I swear to tell the whole truth, withholding nothing and adding nothing.

(Signed)

(Seal)

I certify that I am conversant with the English and Japanese languages, and that the above translation is true and correct to the best of my knowledge and belief.

Saitō Tadashi

(Signed)