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29771 * Reference was made to the affidavit of the witness where he referred to a document accepted by the Premier, Foreign, War and Navy Ministers on 1 October 1937. When shown a document, he stated that it bore the signatures or seals of those four Ministers, was dated 1 October 1937 and was the document he referred to.

29772 * Exhibit 3262, "An Outline regarding the settlement of the China Incident", the document being identified by the witness, stated that the present incident would be speedily concluded through the efforts of

29773 armed forces combined with diplomatic action and making China abolish anti-Japanese and pro-Communistic * policies and establishing bright and lasting friendship with China. They would make harmony and co-prosperity between Japan and Manchuria and China the main objective. To withstand lengthy use of military force, necessary measures would be taken.

The objective of military operations was China's speedy relinquishment of hostile intentions. Occupation of any points and other necessary operations would be taken to achieve this. The objective of diplomatic measures would be to urge China's reconsideration of her hostile attitude and induce her into a position they desired. With China and third powers, negotiations and operations would be carried out. On concluding the incident, China would be made to give up anti-Japanese and pro-Communistic policies and diplomatic negotiations would be conducted along lines of epoch making diplomatic readjustment unbiased by past circumstances.

29774 * In employing military, diplomatic and other necessary measures, utmost care should be exercised not to overstep international law. The principal areas where land forces would operate were mainly Hopeh-Chahar and Shanghai. In areas where necessary, sea and air operations would be conducted. To make operations smooth and to cope with a possibility of a change for the worse in the international situation, nationwide mobilization, wartime laws and realization of durable national unity would be resorted to.

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29775 Solution of the North China problem aimed at realization and co-prosperity among Japan and China and Manchuria with its major objective to make North China a cheerful district under * the Chinese Central Government.

In Central and South China, they looked forward to a situation suitable for the advancement of Sino-Japanese commerce. Measures taken in regard to rear operation zones in North China would shake off the idea of its being occupied enemy territory. In that zone no administration would be conducted but security would be maintained under military forces. The administrative organization would be left to independent native organization but proper guidance would be given to make it a bright institution.

29776 The management of communication and exploitation of natural resources necessary for military purposes would be carried out under necessary control. * However, the last two points would not affect readjustment talks or diplomatic relations taking place after the amicable settlement.

29777 * Matters relating to commerce, economics and finance between Japan, China and third powers would be regulated with the main objective making China give up her hostile attitude.

Diplomatic policies toward third powers and various connected operations would, along with having third powers entertain goodwill toward them, voluntarily be executed so as not to brew conflict or invite interference. In carrying out military operations and other measures, utmost care should be exercised to comply with the main objective.

29778 * Relief would be administered to Japanese residents and concrete plans for these provisions would be decided separately. Regarding conditions for the settlement of the situation, demilitarized zones would be established in North China. A demilitarized area would be so established where public peace and order would be entrusted to restrictedly-armed Chinese police.

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The minimum of Japanese demands in North China was that if necessary Japan would reveal her intentions to reduce voluntarily as much as possible the number of occupation troops, limiting it to the number at the outbreak of the Incident.

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* Another minimum demand was the Tangku Truce with the various arrangements concluded in accordance with it. Those arrangements, such as seizure of the Gateways of the Great Wall, through railway traffic, establishment of custom houses, mail service, and air service would be excepted and the DOHIHARA-Chin-T-Chen Agreement and UMEZU-Young-Chin Agreement would be dissolved. Central forces in Hopei would be withdrawn. Control over anti-Japanism and prevention of Bolshevization in the demilitarized areas would be strictly enforced.

The Hopei-Chahar and Eastern Hopei Councils would be abolished and administration would be conducted by the Nanking Government, but it was desirable that administrative leaders of the area be influential for bringing about realization of Sino-Japanese friendly relations. Japan would make an agreement aiming at economic collaboration with China. The collaboration depended upon joint management on an equal footing.

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* A designated demilitarized zone around Shanghai would be established where international police or restrictedly-armed Chinese police would be responsible for peace and order, assisted by the Settlement Municipal Police. It would be unnecessary except for the anchorage of warships for each country to retain land forces in the settlement. Simultaneously or subsequent to the truce parleys, negotiations for readjusting Sino-Japanese relations would be conducted without being influenced by past affairs. Upon the conclusion of the intended truce parley, the two countries would issue a statement that they had entered upon a new deal to bring about close friendship.

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* China would grant formal recognition to Manchukuo, an Anti-Comintern Pact would be concluded and especially strict control would be enforced in the North China demilitarized zone.

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In addition to the abolition of the Hopei-Chahar Council and Eastern Hopei Regime, Japan, with regard to Inner Mongolia, would try to persuade China to concede to Japan's righteous demands in that area, recognize the present status of Prince Teh in the SI and CHA Banners which would be made a mutual zone.

China would undertake control over anti-Japanism and effect the Ordinance of Friendly Relations with Powers, especially in demilitarized areas.

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* Free aerial flights would be abolished, custom tariffs would be reduced and Eastern Hopei special trade would be abolished and restoration to the Chinese of freedom to control smuggling in the sea off the demilitarized areas would be made.

The plan regarding settlement of the situation was to minimize danger of future conflict by establishing demilitarized zones and removing deep-rooted causes for clashes by readjusting diplomatic relations.

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Pending issues were to be solved through normal conversions, as establishing cheerful diplomatic relations. * Along with the expansion of the aspects of war, the people's expectation of the fruits of war would grow larger and they would be anxious to secure more tangible conditions, such as indemnities. Accordingly, they must be consistent and broad minded in the settlement of the situation but at the same time they must negotiate on readjusting diplomatic relations.

Regarding such conditions, indemnities for direct damages to Japanese properties and rights which China had assumed responsibility for protecting, and direct damages due to illegal use or disposal by China of Japanese owned properties and rights would be required.

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Another such condition was the formation and operation of a large scale Sino-Japanese joint syndicate engaged in * marine transportation and aviation. Whether air service between Asia and Europe was to be operated by the syndicate and whether it was to be dealt with in a special negotiation required further

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study. However, for the present, the Asia-European Air Service would be amalgamated into the syndicate with German holdings in the company bought up by Japan. The syndicate would also operate railroads, including the Shangtung Railroad and Tsingshih Railways. It would operate gold, iron and coal mines in North China and agriculture and other suitable enterprises.

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* Settlement of pending issues would come in the following order:

(1) Conclusion of a Sino-Japanese tariff treaty with reduction or removal of import and export duties,

(2) Removal or modifications of the ban and restrictions on import and export,

(3) Removal of restrictions on the production and export of salt.

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* Another document was handed the witness, and he stated it was on stationery customarily used by the Foreign Office.

When it was suggested that it came from Foreign Office files, he stated he had no basis upon which to confirm its authenticity since it did not bear the signatures of the Foreign Minister, Vice-Minister or Bureau Directors.

With respect to the document, he had no positive recollection and when asked if he recognized it as a decision reached by the three ministries, including the foreign, he stated he could not reply as he had no assurance as to its authenticity or correctness.

Regarding the account of the negotiations he included in his affidavit, it was impossible to remember all details. He could say there may have been such a thing as the decision mentioned in the document but he had no positive recollection whether the document itself was a result of discussions.

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* Based upon the document, the witness was asked if HIROTA, together with the War and Navy

Page Ministers in October 1937, decided that Japan would reject intervention or arbitration founded on placing Japan in the position of a defendant. The witness stated it was the fixed policy to reject intervention or arbitration by third powers. When asked if those three ministers on October 22, two days after the first invitation to the Brussels Conference, immediately decided to reject the invitation, he stated he did not know whether it was two days later, but the government decided to reject it.

The witness was quoted the statement which said that with the advance of the military movement, when its purpose should be practically attained, the Nanking Government would under pressure of force want to sue for peace.

When asked if the three ministers decided this, he stated he had no recollection whether it was decided that China would be forced to take such measures by pressure.

29789 * It was not true that this was the whole object from the beginning.

Asked if the three ministers on that day desired that when the purpose of the military movement was practically attained, the good offices of the U.S., Britain and other third parties would be advantageous, he stated that he thought it was their policy, that this would be welcome if the means were proper.

The good offices of Germany and Italy were welcome and HIROTA also welcomes those of the U.S. and Britain.

29790 * Asked if the three ministers decided on or about 22 October 1937 to refuse to exclude hasty intervention or arbitration by third parties, the witness said it was Japan's policy to reject intervention or arbitration whether it was early or late. The good offices of third parties were always welcome, but the policy of the government was to effect fundamental settlement through direct negotiations with China. Asked if they decided that they might accept the services of third parties

Page when Japan had nearly achieved the purpose of her military movements, he stated that as far as Foreign Office authorities were concerned * the purpose of military operations was to protect the lives and interests of Japan and when that purpose was realized Japan was prepared to accept.

29791 Asked if by October 22, the situation had got far beyond any question of protecting anything, the witness stated Japanese interests were to be found throughout China. Asked if that was a sufficient excuse for occupying all China, he stated that complete occupation of that large territory would be impossible but they believed that their purpose could be carried out by occupying important points.

Asked if they were not willing to accept the services of third parties until the military purpose had been nearly achieved, the witness stated that informal negotiations were already in progress and if the meeting of the three ministers mentioned actually took place, he would presume that when the proper time came they would like to place negotiations on an official level.

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* The witness was asked if they decided not to publish their intention of accepting third parties' services or make known to foreign governments because that would indicate weakness within Japan. He stated that such a possibility could exist as such precautions are common in diplomatic practice. He thought that was HIROTA's policy at that time but he did not recall that they decided on that day that they would only notify the policy beforehand to Germany and Italy. He did not recall that they decided that they would have another meeting to decide when the purpose of military movements toward China had nearly been accomplished and when they should notify Germany and Italy of the policy.

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* The witness was asked if after these questions from the document which had been handed him were put, if he still doubted as to whether it was an authentic Foreign Office document. He stated that what he had said in reply to such questions came from his recollection and he could not say more. He recalled a meeting at the end of October, in which

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29794 HIROTA invited a number of industrialists to tea. The witness attended the meeting and at that time there was an anti-British movement in Japan. The witness was quoted a statement from a document that the anti-British movement was very bad. If England was disregarded, there would be no country that would act as an intermediary with China. * If such things were done, the government would be troubled. In the end they might have to fight England or collide with her sometime, but such things were absolutely out of the question right now. Diplomatically, if such things were done, the government would be greatly inconvenienced. The witness was asked if HIROTA said this to the industrialists. The witness replied he did not recall all HIROTA said on that occasion but HIROTA did say that inasmuch as Britain was the most proper country to bring about reconciliation with China, the anti-British movement would be troublesome and embarrassing.

The witness did not recall his saying that in the end they might have to fight England. He would be surprised if he himself had told HARADA that HIROTA had said that.

29795 * Asked if HIROTA had not in the previous fortnight agreed with the War and Navy Ministers that it would be much better to have Germany and Italy as intermediary, the witness stated he had no recollection but HIROTA had no objection to using those two countries for the purpose. However, HIROTA constantly stated it was not proper nor effective to rely only on Germany and Italy.

Ambassador Craigie told HIROTA that even after the good offices of Germany and Italy were requested inasmuch as they would not have the trust of China, it would be more advantageous and effective to rely upon the good offices also of the U.S. and Britain. HIROTA replied that he heartily approved of this suggestion.

29796 * HIROTA in no case ever entrusted sole
 29797 responsibility for negotiations to any Ambassador Dirksen. * The witness did recall that HIROTA did ask Dirksen to undertake negotiations. The witness

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Page thought this was in early November but he did not recall whether HIROTA received a visit shortly before the 5th of November from Craigie as he frequently visited HIROTA.

29798 Asked if HIROTA said that in view of anti-British agitations, he thought that England would not be the best country to conduct the negotiations, the witness stated that his recollection was that it might have been difficult if Britain alone handled the matter. Asked if HIROTA said England was the most suitable country and nothing could be settled if Germany and Italy came into the picture, the witness said he thought such a conversation was possible because HIROTA always thought Britain was the most reliable to serve as mediator. *

Asked if HIROTA said that immediately after he had asked Dirksen to initiate negotiations, he stated there was no objection to Germany and Britain participating together but he thought he recalled HIROTA telling Craigie that there were no objections to their working together. Because of the army's opposition to British mediation, the witness recalled HIROTA telling Craigie he would like to have him talk over the matter with Dirksen and to take a cooperative role.

The attention of the Court was called to Exhibits 270, 486 and 2235.

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* The witness stated he did not have the letter referred to in his affidavit, which HIROTA received from Dirksen, and did not know what had become of the letter. He received the account of the conversation between HIROTA and Dirksen from HIROTA, but was not present himself.

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* He did not know if some time in November or early December the army stole a telegram between Dirksen and Trautmann. Asked if the army discovered the terms and said that owing to the advance which Japanese armies had made the terms would have to be stiffened, the witness stated he did hear there was a certain element in the army holding such opinions. HIROTA did not agree to stiffen the terms. He asked Ambassador Dirksen to use his good offices on the conditions agreed upon between the Foreign, War, and Navy Ministries. From the beginning, there was an element, especially among younger officers in the General Staff, opposed to these terms, and they said the Foreign Minister's attitude should be firmly opposed.

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* The witness did not recall if, a few days before the fall of Nanking on 13 December, the Japanese Cabinet decided that when Nanking fell they would issue a statement of non-recognition of Chiang's government. Asked if it were true that HIROTA, at a Cabinet meeting on 18 December, brought up the terms he had submitted to Dirksen and a detailed proposal of terms for China, the witness stated he didn't remember those proposals were presented to that Cabinet conference or not.

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He did not recall if the General Staff at that date put forward the view that war in China must be stopped at the earliest moment. He did not know if they gave as their reason the necessity to prepare for war against Russia. * He did not know if they insisted that the full terms in detail which Japan was prepared to accept, should be put before China.

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The witness stated he could testify as to whatever HIROTA told him as far as he could remember, but he didn't remember HIROTA's saying anything about the Cabinet meeting of 18 December. * Regarding the manner in which he got information from HIROTA, it was necessary to divide the problem into two parts. First was the question of whether HIROTA thought it necessary to tell the witness of what transpired on every occasion, and he would not go so far as to say that HIROTA always told him all he had on his mind. The second question was whether the witness remembered all HIROTA told him.

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29806 * Asked if it was not necessary for him as Vice Minister to know whether the terms to be presented to China were the detailed terms of what Japan was really going to insist upon, he stated that he remembered that HIROTA told him of the Cabinet decision in relation to the terms and HIROTA handed notes of the Cabinet decision to him. He didn't remember whether the details of the terms were discussed in the Cabinet meeting of the 18th or 20th. When asked where the notes were that HIROTA gave him the witness stated he had meant that HIROTA handed them to Dirksen.

29807 HIROTA did not tell the witness that the Cabinet, at the insistence chiefly of KIDO, had refused the General Staff's proposal for lenient and detailed terms to China, and had insisted that only the four vague terms should be presented. * HIROTA did not tell the witness that he agreed with the proposal that only vague terms should be given the Chinese. The witness stated he was not present at the Liaison conference on 20 December, but got his information about it from HIROTA. Asked if HIROTA told him that on that occasion the General Staff had expressed strongly for immediate peace with China, the witness stated he had not heard of that. HIROTA had, up to 2 December, continued to inform the German Ambassador that the same terms he had offered before were still open.

29808 * The witness did not remember exactly if a Cabinet meeting was held on 21 December. (Exhibit 2259). Asked if there was not immediately after the Liaison conference of 20 December a Cabinet meeting which settled the draft of the answer to Dirksen with regard to the negotiations, he stated that he remembered that new terms were presented to Dirksen and that his further good offices were requested. According to his recollection, the terms were the four general principles. It was also decided that if necessary additional explanations could be given by HIROTA, and the points on which the explanations were to be made were also decided. * He repeated that what was presented to the German Ambassador were these four terms.

29810 As to the detailed explanation, some of them related to unfortified zones, specifying them, and there were also details of demilitarized areas around Shanghai. In relation to reparations, explanations were made that they would be asked for damage suffered by Japanese nationals, the government, and other public organizations. It was further explained that these were reparations and not indemnities.

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29811 * Details about economic relations among Japan, Manchukuo, and China, concerned import and export duties and postal communications. He had heard that HIROTA received a reply from Dirksen stating that the four terms, together with the additional oral explanations, had been transmitted to the Chinese Government through Ambassador Trautmann in China. HIROTA told the witness that details were transmitted at that time.
- 29812 * When asked if there was a Cabinet meeting on 24 December, 1937, which decided the outline of measures for the China Incident, the witness stated he remembered that some time about then, this outline was decided on. The witness was shown a document and asked if it were a record of the Foreign Office of such a decision. He stated that it was not on official paper and there was no signature or seal on it. * The title of the document was "The Outline of Measures for the China Incident", and he
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- 29814 * recognized it as a copy of the decisions.
- 29817 * Exhibit 3263, the "Outline of Measures for the China Incident" and "Decision of the Cabinet Council on 24 December, 1937, being the document identified by the witness, stated that since the outbreak of the China
- 29818 * Incident, the government hoped Nanking would abandon its anti-Japanese and pro-communist policy and act in concert and contribute to stabilization in East Asia. If China would reconsider they would strive with her to save the situation, but they must be prepared for China's advocating further resistance and showing no sign of reconsideration.
- With the development of their military activities, the occupational area had become extensive and it was necessary to carry out its management. They should not necessarily expect a conclusion of the negotiations with Nanking, but in order to cope with the resistance they should take measures according to the following policy in North and Central China. The purport of this policy should be declared to the world at a suitable occasion.
- 29819 * In North China they should aim at the establishment of an anti-communistic, pro-Japanese and Manchurian regime, and inseparable relation between Japan, China, and Manchuria, economically. They should promote these objects and strengthen this regime, which should be supervised to become the leading power of a new China.

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In case the negotiations with the Nanking government were concluded, this new regime should be adjusted according to peace conditions. It was of vital importance to create a new North China regime capable of winning public confidence, both in North, Central, and South China. The leaders of the regime should have the confidence of all China, and the regime should have an organization appropriate for the new era. It should maintain an outline of policy worthy of being advocated to all China.

29820 Regarding supervision of the regime, this should be done according to a policy of non-interference in the * particulars of administration, but restricted to internal supervision by Japanese advisers. The areas to be included in the regime should depend on the development of military operations, but should mainly be Hopei, Shantung, Shanhsi, and a part of Chahar, Provinces. The Chitung self-government should be dissolved and absorbed by the new regime. Likewise, the self-government of Chanan and Chinpei. Close relations should be maintained with the self-government of Mongolia.

For the time being, they should not be concerned with the concessions, to avoid disputes with third countries, but outside the concessions they should, even before establishing the new regime, supervise things to complete administrative organs with regard to customs, considerations should be made separately.

29821 The object of the economic development in North China should be to strengthen the relation of Japanese and Manchuria economy, and establish the foundation for co-prosperity among those two nations and China. They should develop every line of economy by combining Chinese capital with their capital and technique and thereby strive for peace and stabilization and contribute the development of production of necessary materials for national defense in Japan and Manchukuo.

They should pay attention to the harmonization of international revenues and disbursements and the adjustment of supply and demand. They should do their best to put the Chinese in the limelight so they would not get the impression that economic pressure was put upon them. They should emphasize proper management so as not to betray the expectation of the nation.

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* A national policy company for the development and control of North China economy should be organized to realize the industrial mobilization of Japan. This company should be responsible for the development and management of important industries.

As to managing the company they should be careful to exercise control according to circumstances and to comply with the industrial plans of both Japan and Manchuria. Except for major transportation, communication, electric power, generating, and transmission, mining, and salt enterprises, other industries, other industries should not be put under special control except for special reasons.

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In the economic development of North China, they should utilize Chinese capital and cooperate with Chinese enterprises. * Cooperative investment of funds by third countries should be permitted, and their existing economic rights should be respected as much as possible. Close connection should be kept in trade relations between Japan, Manchukuo, and North China, and suitable adjustment should be made with regard to trade between North China and any third country.

The government on the spot should gradually establish necessary facilities in regard to agricultural improvement, etc. Existing enterprises in North China, in connection with major industries, should be disposed of or adjusted according to this policy. They should immediately operate enterprises able to start at once, on condition that disposal or adjustment would be made according to this principle.

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The Provisional Government of China, or the Public Peace Maintenance Associations, or the district governments, should for the present be the party they should deal with in economic negotiations. * Regarding policy for the management of the Shanghai area, they should consider the establishment of a new government in areas occupied by their troops which would have connections with the New North China regime, but for the time being, the Public Peace Maintenance Associations should be established and charged with the maintenance of peace.

Policies for the concession and surrounding areas should be established separately. As to areas around the concession, they should cooperate toward their development, and consider the establishment of organizations for the security of peace in the concession.

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The areas around the concession under the jurisdiction of Greater Shanghai City, excluding the concession and roads on its boundary, * should be called the Special City and have a Chinese mayor, but a Japanese councillor should be appointed to assist the mayor. Authority for the councillor should be established separately.

A special police department should be established to conduct police administration. The chief and all lower ranking police chiefs should be Chinese, but a reasonable number of Japanese councillors should be appointed to cooperate with him. The employment of foreign councillors should be considered, if necessary. The number of Chinese police and their armaments should be established separately, and police authority for Japanese residents in the Special City should come under the jurisdiction of the consulate police.

29826 Financial administration should be maintained by revenues, including the kinds of taxes levied in the old City of Shanghai, * and would be obtained by taking over organizations under the control of the former Kuomintang government.

29827 In expectation of the establishment of a new regime in Central China, the Special City should be an open port, and foreign rights should be recognized. To establish Japan's economic development in Central China with Shanghai as a base, the areas around the concession should be called the Special City and a national policy * company should be established to maintain control of the various public utilities. The scale and order of the undertakings of this company should be determined separately. The capital of the company should be provided from funds on the spot, so far as allowable for that purpose.

Capital to Japanese entrepreneurs in the Special City and concession and the acquirement of real estate in the concession by Japanese, should be taken into consideration separately. Official establishments in the Special City formerly owned by Chinese authorities should be taken over and utilized. Those required by the Special City authorities for administration should be used by them.

29828 * The Special City should be utilized as the base for communications, transportation, and airways between the Shanghai vicinity and Japan, North China, and Manchuria. Suitable steamship companies should make use of Chiukiang and Chaoshang Chu piers. Facilities for communication rights in the future would be controlled.

Page Lunghwa airfield should be controlled. The right of administration for Hongjao and Yuantung air bases should be acquired.

29829 A large market should be established in the Special City. For the present, utilizing the Shanghai fish market should be considered, * and small crafts permitted to enter and leave the port freely.

As for business which could be immediately started, this should be started promptly on condition that they be properly disposed of at the time of the establishment of the national policy company. The Public Peace Maintenance Committee or the district governments should, for the present, be dealt with in negotiations for these economic rights.

Regarding the management of North China, as for major transportation and communication enterprises, management by a single company in all of Manchuria and China should not be permitted. The North China regime's finance should be strengthened to promote public and other enterprises in North China to maintain and improve international revenues and disbursements between North China and any third country, and appropriate policy should be taken.

29830 * The gold production industry in North China should be immediately taken from the viewpoint of international revenues and Japanese disbursements. These circumstances should be considered when making future adjustments.

Regarding the management of areas around Shanghai, the national policy company should be permitted to execute business in connection with land under the control of Japanese army and civilian authorities in the Special City.

29831 * The witness did not recollect if on 8 January, 1938, HIROTA informed Dirksen that if the Chinese wished to ask questions to understand the four points more freely, Japan would answer them, and if he asked Dirksen to obtain them from Trautmann in China. He did recollect that HIROTA

29832 * gave quite detailed explanations in regard to the four
29833 terms. * The witness did not remember whether HIROTA, on 6 January, informed Dirksen that he would welcome questions from China, or whether HIROTA told Dirksen he expected either an answer or a query from China in the near future.

Page He didn't remember whether HIROTA saw Dirksen and told him that Japan expected an answer with the utmost speed on 10 January. He did recall that he told Dirksen he hoped China would be urged to reply as quickly as possible.

29834 * He did not remember HIROTA's saying on 10 January that the military insisted upon an immediate and clear answer. (Exhibit 486-F). He did not recall if the General Staff were insisting that the terms should be clarified and that the Cabinet insisted that they should not be.

29835 He had omitted the Imperial Conference of 11 January, 1938, from his affidavit, because he had not remembered it, although he had not forgotten all about such a conference. * He did not recall who called for the conference, or whether HIROTA said he saw no need for it. He did not hear at that time that the army said that one reason they wanted the conference was that Generals TERAUCHI and MATSUI in China were urging that the government should have nothing more to do with Chiang Kai-shek. He did not hear that the General Staff said they wanted to suppress those opinions and make an immediate peace.

29836 * According to his recollection, the outline of the measures for the China Incident were recognized at that Imperial Conference and a decision was arrived at by which Japan would no longer recognize the Chinese government. (Reference was made to exhibit 270 and 2235).

The witness was handed a document and was asked if it was not the official record of the Imperial Conference. He said he supposed it was.

29837 * Exhibit 3264, records concerning the Imperial Conferences, being the document identified by the witness, stated that on 11 January, 1938, an Imperial Conference was held to decide policy toward China. The previous autumn, when the China problem became serious, there were arguments insisting on establishing a firm national policy through an Imperial Conference. Under the varying situations, it was difficult to decide policy and the government did not realize it until then. There had been on one hand the German movement for mediation, and on the other the Chiang Kai-shek regime would not collapse easily and it seemed not to reject such mediation.

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* In case peace came suddenly or Chiang's regime was annihilated, the government recognized the necessity of deciding counter measures for that. The government petitioned for an Imperial conference and held Liaison and Cabinet conferences extending to the 9th and 10th. The Chief of the Naval General Staff made an offer that it was desirable that the Emperor also ask a few questions. However, as Prince SAIONJI was prudent about the Emperor's speaking, the Lord Keeper told HARADA of this on the 10th and asked him to hear SAIONJI's opinion, adding that he, the Lord Keeper, believed the Emperor's speech might be admissible unless it included a final decision. HARADA
29839 * requested SAIONJI's opinion, and he stated that he agreed with the Lord Keeper, meaning he didn't want to fix responsibility upon the Emperor and that he regarded other questions admissible.

KONOYE received an audience with the Emperor on the 10th on the matter of an Imperial conference on the 11th. He met with the Lord Keeper, and told him that in proceeding with the Imperial Conference there would be no need of the Emperor's speech, since he was going to bring a plan which was mostly already decided.

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* The Lord Keeper also considered the proceedings of the Conference and received an audience on the 10th, after the withdrawal of Premier KONOYE. He told the Emperor he thought it appropriate for KONOYE to manage conference procedure, and it was decided that the Emperor would grant permission to this effect. On the 11th the conference convened, and the President of the Privy Council, HIRANUMA, participated by special order. Because of the Privy Council's connection with diplomacy, KONOYE privately requested and received sanction to have HIRANUMA take part.

KONOYE stated that with the Emperor's permission, he would manage the council, and had Foreign Minister HIROTA explain the original draft. The Chief of the General Staff stated that he approved the draft from the standpoint of a permanent peace. The Chief of the Naval General Staff also approved. HIRANUMA approved, and stated that if some agreement were reached with the Chiang regime, consideration must be given to offering full protection to those hitherto in the pro-Japanese administration in North China and elsewhere. He requested the Home Minister to give special thought to domestic public order. The Emperor made not a single remark.

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The various circumstances were explained on the day before to HIRANUMA * by the Chief Secretary and Vice Minister of Foreign Affairs. HIRANUMA seemed dissatisfied that such measures were taken for the first time that day. On the day of the council, HIRANUMA said he had a few questions, which were replied to prior to the council.

The government issued a statement on the 16th to draw up a liaison conference and a cabinet meeting were held on the 14th and 15th. The matter had not been settled because of the General Staff's insistence upon efforts for reconciliation. The government plan was finally accepted, but individuals of the General Staff added that they still believed the reconciliation doctrine was satisfactory.

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* Reference was made to the document where it showed that HIRANUMA and HIROTA were present at the council in the Imperial presence on 11 January 1938. The exhibit stated that the inflexible policy of the Empire was to form an axis for peace in cooperation with Manchukuo and China. To settle the China Incident in accordance with this policy,

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* Japan and China would sweep away all past frictions, recognize their mutual relationship, recognize each other's sovereignty and territorial integrity. Japan, Manchukuo and China should abolish all policies liable to ruin their mutual friendship. They should be united to realize their cultural coalition and anti-communism policy. They should cooperate with regard to industries, economics, etc.

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Japan, by applying closely unified political and military tactics, should carry out the following measures. * If the Chinese Central Government should reconsider and ask for reconciliation, they would negotiate in accordance with the conditions of the negotiations for peace between Japan and China, as indicated on the attached sheet (A). If the Empire recognized that China had carried out the peace conditions, she should not only rescind the provisions of guarantee on the attached sheet (B), but also cooperate sincerely with China for her reconsideration.

If the present Chinese Government does not ask for reconciliation, Japan would not wholly depend upon settling the Incident by taking them as her opponent, but would assist the formation of the New Chinese Government with which to negotiate and cooperate. As for the present Chinese Government, Japan should be determined to annihilate it or take measures to absorb it under the new government.

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* To carry out this policy, they should promote rapid cultivation and arrangements of total national strength, especially defense power, and improve relations with third powers.

29847

* They should respect the rights and interests of third powers and try to obtain the predominant position in economic developments only through free competition. They should guide public opinion to make the people realize the fundamental policy for settling the Incident. The same should apply to foreign peoples.

Attached sheet (A) stated that regarding details of the conditions for peace, China should grant formal recognition to Manchukuo, renounce anti-Japanese and anti-Manchukuo policy, and establish demilitarized zones in North China and Inner Mongolia.

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North China should establish an organization under Chinese sovereignty to realize the co-prosperity of Japan and Manchukuo and China, and give the organization authorities and make special efforts to bring about economic cooperation. * An anti-communistic self-government in North Mongolia should be established, and its international position should be similar to that of the present Outer Mongolia Government. China should establish an anti-communistic policy and cooperate in carrying out this policy.

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* Non-armed zones should be established in the occupied areas in Central China, and Japan and China should cooperate to maintain public order and develop economic activities in the Greater Shanghai district. All three countries should conclude an agreement regarding the exploitation of natural resources, customs, trade, etc. China should make due reparations to Japan. Troops should be stationed in certain districts of North China, Inner Mongolia and Central China for the period deemed necessary. Talk on the armistice pact should commence after an agreement on these provisions had been reached between Japan and China.

When China had carried out these provisions and truly cooperated, Japan would not only rescind the provisions of guarantee, but also offer to cooperate for China's recovery and national development.

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Attached sheet (B), the provisions of guarantee mentioned in attached sheet (A), were non-armed zones in North China and Inner Mongolia; 2, special rights and interests established for security at the negotiations; 3, non-armed zones in occupied areas in Central China. 4, rights and interests concerning control and expansion of communications and accompanying military establishments.

The pacts and agreements to be abolished when peace was made, were the UMEZU-Ho-Ying-Chin Pact, the Tangku Truce Pact, the DOIHARA-Chin To-chum Pact, and the Shanghai Truce Pact.

At the same time, with the abolition of the provisions of guarantee, the renunciation of special rights and interests in China, which Japan had held up to then should be considered.

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29851

* The witness was asked if when the Army General Staff was negotiating with the foreign ministry about this Imperial Conference, if a representative probably Vice-Chief TADA said to HIROTA that the truce conditions were so aggressive that they might impair future diplomatic relations between Japan and China. The witness replied he did not recall hearing such a thing. He did not hear them say it was therefore necessary to hold a conference in the presence of the Emperor.

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* The witness stated he was mistaken when he said the decision not to deal further with the Chinese National Govt was arrived at at this Imperial Conference. He should have said that such measures were considered in such an event.

The witness was asked if the General Staff while negotiating with the Foreign Ministry prior to the Imperial Conference said that because the truce terms were so aggressive it was necessary to establish a basic policy for reconstruction of Sino-Japanese relations by holding the Imperial Conference. He stated he did not recall and added that when an Army opinion was conveyed to the Foreign Office it was the custom for an army representative to convey it. He did not recall that it was conveyed at a meeting between the War, Navy and Foreign ministries attended by the General Staff on January 10, 1938.

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* He heard nothing to the effect that the General Staff said it was necessary to prepare a counter policy against the aggressive domestic tendencies. The witness was handed a document and he identified his signature at the top of it. * Exhibit 3265. The document so identified

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"Concerning the Basic Policy for Settling the Chinese Incident (Subject Before a Council in the Presence of the Emperor) (January 10, 1938, East Asia) stated that * the Army proposed that its drafted plan of the

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policy for solution of the China Incident, Appendix No.1, (Dec.1,1937) should be decided at a council in the Imperial Presence after discussion among the three Ministries. But the Foreign and Navy Ministries left the army proposal as it was because it was unnecessary to make a new policy as they already had prepared a main policy. Moreover the main policy (a) had been established in case of both peace and war and all investigations concerning a peaceful solution with Chaing Kai-shek had been finished when the answer was given to German Ambassador Derksen in Tokyo.

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Certain opinions became more influential among the General Staff after the answer was given to Derksen. These were that conditions of truce were so aggressive that they might impair future diplomatic relations * in China and it was not necessary therefore to establish

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the basic policy by holding a meeting in the presence of the Emperor and to prepare a counter policy against the too aggressive domestic tendency.

The General Staff attended the conference of the three ministries and explained this. The Foreign and Navy Ministers thought the Army's broad view was a good thing and agreed it might be well to discuss the subject in the presence of the Emperor. Consequently the subject of discussion at the meeting in the presence of the Emperor (Appendix II) was drafted.

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* The witness stated that the Chief of the East Asia Bureau at that time was ISHII, Itaro but he did not recall if MATSUDAIRA was Chief of the first section. The witness stated that it was his recollection that immediately after the Imperial Conference on Jan 13th a reply from China came through the German Ambassador on Jan 14th.

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* The witness was asked if when the reply came HIROTA said that China through the Army General Staff Hqrs as well as through the German Military Attache was aware of the concrete proposals but despite this still insisted that the proposals were not understandable. There was no hope in that sort of a reply. It had been determined at the Imperial Council that there was nothing to do but launch the alternate plan to transfer present hostilities into a long term warfare. It was vital to strengthen their determination to this effect. After being quoted this statement the witness said he had no recollection that HIROTA ever said it to him.

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* When asked if that represented the witness' attitude the witness stated he did hear that was the atmosphere in the cabinet but did not hear that HIROTA was especially the one who agreed with this. He was not present on Jan 14th when HIROTA met DERksen and the Chinese reply was presented.

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* He had heard that HIROTA told Derksen the Chinese reply was unsatisfactory and since he had already given a detailed explanation there was no need to add to that. He did not hear that the German Ambassador told HIROTA that that was not true.

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When he referred to a Cabinet Council, the witness meant a meeting of the Cabinet itself and not a meeting of the cabinet councilors. * He did not hear on that occasion that the General Staff repeated their demand that further particulars of the terms should be sent to China.

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When asked if the General Staff finally gave way because of a threat that if they did not either they or the cabinet would have to resign, the witness stated he never heard the General Staff was threatened. He did hear that it expressed the opinion that they wished the negotiations to continue. They did not ask that they be continued on the basis of ameliorating the conditions but that they be continued on the basis of the conditions which should remain.

The witness did not remember that the cabinet meeting was interrupted while the General Staff retired to consider why they should do about this threat. He did not know if the General Staff capitulated and agreed that the declaration refusing to have further dealings with Chiang-Kai-shek should be issued.

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* He did know that the cabinet did arrive at such a decision. But he did not understand that the decision went entirely beyond what had been determined at the Imperial Conference. (The attention of the court was called to Exhibits 268, 486-B, G and I, 972-A and G, and 2260.

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The witness did not remember if on Jan 21 KONOYE sent HIROTA a document containing the general principles of policy after the declaration had been issued. The witness was shown a document and asked if it was not a copy from the Foreign Office of the document from KONOYE to HIROTA. He stated that he did not recall and it was difficult to confirm whether it was a cabinet decision *. He admitted it was important to him as Vice-Minister to know the new policy but he could not confirm whether this document was a copy of the cabinet decision.

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asked if he could suggest any reason why the Foreign Office should file a copy of a message from the Premier to the Foreign Minister if it was not authentic, he stated that generally official documents were filed by the Document Section after being looked over by the Minister, the Vice-Minister or Bureau Chief and such a document always bore his signature or seal. This document did not bear a filing number, or certificate from the chief of the Archives Section.

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The witness said that he was not claiming that extra copies were never made and filed separately but to ascertain later whether such copies were made there must be definite proof. * From the document was read a part which stated that military aims in the China Incident shall be perfectly attained and the status of general mobilization completed. All measures should be taken in response to the prolonged resistance of China. He was asked if that was not a part of the policy decided upon at that time and he stated he did not recall.

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He did not recall, if in February 1938 HIROTA issued instructions to Foreign Ministry representatives in China as to methods of propaganda to disintegrate the Chinese army.

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* The witness was handed a document and asked if it was not issued by the Chief of the Information Section of the Foreign Office from HIROTA to such representatives. He stated he did not recall the contents but it might be a telegram sent out by the chief. Asked if he observed it was from HIROTA he stated it had always been a custom that all outgoing telegrams were sent in the Foreign Minister's name even when sent by the Information Bureau Chief. It was possible to suppose it might have been sent by the chief. It did not bear either the signature of the chief nor of the chief of the competent section.

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* It was difficult to confirm the authenticity.

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* The witness stated he knew Baron HARADA. Asked if he met him on February 14th and asked HARADA if he had heard about the liaison conference of Feb 14 1938, he stated that he did not recall. Asked if he told HARADA that at the conference there had been a dispute between the army and navy as to whether the army would advance as far as Anking so the navy might use it as a bombing base, he replied that he did not quite recall.

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* He did not recall telling HARADA that the reason of the difficulty was that the army was preparing against the Soviet. He did not recall telling HARADA that the Emperor asked the War Minister if it was possible to put into effect a simultaneous plan for long-term hostilities, military preparations against Russia and the expansion of the navy.

He did not recall telling HARADA that War Minister SUIGYAMA replied to the Emperor that he would discuss the matter with the cabinet and take proper action. The witness did not recall this matter being subsequently discussed in the cabinet.

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The witness was handed a document and asked if he recognized it as a foreign office record of the East Asia Bureau of "Matters regarding the Imperial General Headquarters Council in the Imperial Presence dated Feb. 18, 1938. The witness confirmed that the document was written on Foreign Office stationery but he could not confidently say it was a document of the Foreign Office.

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The Vice-Minister did not have the duty of reading all incoming documents. The witness did notice that the contents of the document were similar to the same effect as what was suggested the witness told HARADA. However, he had no recollection of having a conversation with HARADA along those lines nor had he ever seen this document.

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* The witness noticed that there was a pencil notation on the top of the document reading "Original copy at negotiation" but he did not know whose writing it was. When asked if the document was not of such importance that he must have seen it, he stated the document was classified as "material for research". Since the Vice-Minister was very much occupied with other matters it may have been he did not see this document.

The witness noticed that the document stated that to this statement from a naval viewpoint the navy insisted on the necessity of extending naval power for preparing against Great Britain and America. Asked if such a document which disclosed the Navy's intentions came into the Foreign Ministry if it would not be essential for both him and HIROTA to see it, he stated that he did not say that the document was not important but that he had no recollection of ever having seen it. The document merely purported to be a copy and he had no proof that it actually was an official document although it was on Foreign Office paper. It was impossible for him to state that it was an official document.

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* There was a distinction between official documents and other documents filed in the foreign office. He had no recollection whether the conference referred to in the document took place.

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* A reference was made to the witness' affidavit where he referred to the careful consideration which HIROTA took to safeguard the interests of third powers in China and exerted all efforts. The witness stated that he knew that Grew continually protested to HIROTA about breaches of the open door policy and attacks on American lives and property. HIROTA took pains on one hand to explain the real facts of the situation and on the other hand called attention of the Army and Navy to the protests and did his best to protect the interests of third powers. He sent repeated instructions to the diplomatic representatives in China to take all possible steps to safeguard the interests of third powers.

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The witness also recalled that there were frequent protests

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from the British Ambassador but he could not say that there was the same lack of results.

(Attention of the Court was called to Exhibits 941, 944, 954-C, 955, 968, 969, 973)

The witness remembered the "Lady Bird" Incident and recalled that December 30, 1937 HIROTA sent an official note to Britain that the firing upon the "Lady Bird" by the Japanese army was entirely due to a misunderstanding. He recalled that a similar explanation was made with regard to the attack upon the "Panay".

29878 It was absolutely not true that he knew the explanation was untrue. The witness was asked if on December 14th a fortnight before the note was sent if he saw Baron HARADA * and he replied that he did not remember whether he saw HARADA on that day. He was asked if he said to HARADA that the naval air forces bombed and sank an American merchant ship and that at about that time an English warship was shelled at Nanking and men wounded, that this was a real disaster and that the English warship was a small one. However it was 26 miles up stream from Nanking. The regiment of which HASHIMOTO, Kingoro was commander, fired on it by the order of HASHIMOTO. The witness stated that he did use words of a similar nature but did not recall ever using the word deliberately.

29879 Even if the firing was carried out under HASHIMOTO's orders it was possible that he might have mistaken the ship for a merchantman. He never at any time suggested that HASHIMOTO deliberately gave an order to * fire on the British warship knowing it was British.

29883 *Exhibit 3266. The affidavit of HAYASHI, Kaoru, certifying to the correctness of Exhibit 3267 and that it was in the archive section of the Foreign Office was received into evidence but not read.

29886 * Exhibit 3267, a Foreign Office document concerning the problem of the conclusion of a Japanese-German Political Convention dated July 24 1936, stated that the Soviet was menacing Japan. She had concluded treaties with France, Czechoslovakia and Outer Mongolia and backed Communist activities in China. It was necessary for Japan to make common cause with another nation to check the Soviet. It was considered proper and easy to choose Germany for both she and Japan had similar standpoints as regards their international situations, especially their relations with the Soviet. Moreover their relations had recently taken a favorable turn.

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DIRECT EXAMINATION OF HOURINOUCI, Kensuke
by MR. YAMOKA

29667 * The witness identified and verified Exhibit 3260 as his affidavit. The affidavit stated that during the period 1911 Dec. 2
29684 *to Dec 21 1940 the witness was among other positions, vice-foreign minister under ARITA in the HIROTA Cabinet from April 10 1936 until he was appointed Ambassador to the U.S. October 15, 1938.

29685 He was also under Foreign Minister HIROTA in the first KONOYE Cabinet from June 4 1937 to May 26 1938. The foreign office did not have the slightest inkling of the Marco Polo Bridge Incident. The telegram reporting its outbreak reached Tokyo July 8 1937. The following day HIROTA was at Kugenuma when he received a telephone call from the foreign office reporting the outbreak. The foreign office policy was to make its utmost effort to seek an amicable settlement of the matter as soon as possible. An extraordinary meeting of the cabinet council was held Sept 9 which decided the government attitude was to hold fast to the policy to arrest the scope of the disturbance and seek an immediate local settlement. The decision was largely due to HIROTA's opinion.

In North China Maj Gen HASHIMOTO, Gun, chief of staff of the North China Affairs, and others negotiated with the Chinese 29th Army reaching an agreement at 8 PM on the 11th. The 29th Army accepted Japanese Army demands that a representative should express regret, punish the responsible and make a vow that recurrence of such event should be prevented. As the concentration of Chinese troops near Fengtai where Japanese forces were stationed was liable to cause incidents, the Chinese troops stationed at the citadel of the Marco Polo Bridge and Lungwangmiao should be withdrawn and replaced with police forces. Anti-Japanese forces should be strictly controlled.

29686 * These terms seemed to be carried out by the Chinese before July 22. But in the meantime there were frequent skirmishes between Japanese and Chinese troops as the latter after withdrawal reappeared in the areas and the situation called for prudence and caution.

29687 * Prior to this it was arranged that an extraordinary session of the cabinet council be held July 11th and it was reported the army would propose preliminary measures for mobilization. Foreign Minister HIROTA arrived from Kugenuma on July 11th and at the foreign office assembled the witness, East Asiatic Director ISHII and European Asiatic Director TOGO to deliberate on the reported army's proposal.

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29688 It was decided the proposition should be opposed. Foreign Minister HIROTA attended the cabinet meeting at which the War Min. SUGIYAMA explained the plan for the preliminary arrangements for mobilization. The plan was not to make immediate arrangements but just a preparation for the preliminary arrangements for mobilization. It amounted to a Cabinet decision to envisage eventual preparatory measures for mobilization if the situation became more serious.

HIROTA said however that the matter might already have been settled locally and that consideration of the army's proposal should be postponed until further reports reached the government. The discussion was once postponed. But the awaited report being late in coming, the cabinet council assembled again the same day and was compelled to approve the army's proposal. This provided that to secure the apology and future guaranty by the Chinese, necessary forces in the homeland and contingents from the Kwantung and Chosen Armies should be mobilized and despatched to reinforce North China forces.

All possible efforts should be made for peaceful settlement in conformity with the policy of local settlement. The despatch of troops should be immediately stopped when this object was attained and the apology and future guaranty fulfilled by the Chinese.

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*HIROTA consented with reservations that the despatch of troops should be exclusively for protecting Japanese residences and securing the safety of the North China forces which were comparatively small in strength, and that the decision for mobilizing home troops was nothing more than an attitude of preparedness as contended by War Minister SUGIYAMA. Holding fast to the policy of speedy local settlement, the foreign office was determined to spare no effort for its attainment. By HIROTA's order, the witness asked the Chinese Charge d' Affaires to call at the foreign office on July 11th and called the attention of the Chinese Government to the critical North China situation urging quick local settlement.

29690 The witness told him that instructions to the same effect had been given orally that morning to the Japanese Ambassador to China, *Mr. KAWAGOYE. KAWAGOYE was on his way to North China, leaving Shanghai the day the Incident broke out and Councilor HIDAKA executed the instructions on his behalf.

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They received reports that the Nanking Government however, was despatching reinforcements to North China. The Chinese 29th Army, probably influenced by Nanking's military actions, came to show a dubious attitude regarding execution of the terms of settlement agreed upon on July 11th. The Foreign Office ordered Councillor HIDAKA to call upon Nanking not to interfere with the execution of the three terms and to check the northward movement of the Chinese central armies. Nevertheless these armies were reported still advancing northward.

In view of China's attitude, the cabinet decided on July 20 that preparations should be made for mobilizing three home divisions.

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* The Foreign Office did not give up the hope of amicable settlement and had Councillor HIDAKA pursue the Nanking negotiations in earnest. Unfortunately there were clashes in North China since July 25th or 26th and orders for mobilizing the three home divisions were issued July 27th. From the 28th onwards hostilities in North China spread and the situation in Shanghai vicinity became disquieting. Thus all efforts of HIDAKA in Nanking proved fruitless.

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In Tokyo, British Charge d' affaires Dodds called on the witness July 15th and asked if Britain could be of service. The witness told him he thought there were prospects of local settlement. From then until July 20th, Dodds came almost every day and kept him informed of conversations between Ambassador Huggessen and the Chinese Foreign Minister. The witness told Dodds they had not yet given up hope for a local settlement *. On the 22nd Ambassador Grew made an offer to HIROTA that his government would render services short of mediation.

HIROTA replied that in the light of the North China situation on the 19th there was still some hope that the agreement of August 11 might be carried out. The foreign office had not given up the hope of local settlement but was making desperate efforts.

In July a draft of terms was worked out by the authorities of the foreign and war offices and the navy minister. Its main points were the establishment of unfortified zones along the Pai-ho River, the withdrawal of Japanese and Chinese troops from the areas specified, and no annexation of territories and no indemnities. The Foreign, War and Navy Ministers and the premier approved the draft on August 5th.

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* In early August HIROTA made up his mind to send FUNATSU, an authority on China to Shanghai to attempt to restore peace. FUNATSU was to have talks on the lines of the August peace terms with KAO Tsung-wu chief of the Asiatic Bureau of the Chinese Foreign Office who had direct contact with Chiang Kai-shek.

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FUNATSU arrived in Shanghai on the 7th at which time Amb. KAWAGOYE returned to his post there. The two decided that KAWAGOYE negotiate with KAO Tsung-wu. At the interview on the 8th KAWAGOYE revealed the terms of the August plan as his personal propositions. KAO said he thought there were prospects of peaceful settlement upon the terms and promised he would immediately return to Nanking and report to Chiang Kai-shek. But it happened that a Japanese Naval officer was killed by Chinese soldiers on August 9 (OYAMA incident) * and after the 13th Japanese and Chinese forces entered into hostilities in Shanghai district, suspending communication with Nanking. The KAWAGOYE-Kao interview thus ended without results. Even then HIROTA did not give up hope of an amicable settlement.

He asked ARITA, the foreign Minister in the HIROTA cabinet to go to Shanghai where leading figures of the Nanking Govt. often gathered and stay there for a chance of having informal talks with them. ARITA accepted and it was arranged he would first visit Manchuria and North China until HIROTA wired him of the proper time to start for Shanghai. ARITA left on the 28th on his tour of inspection but as the situation did not become favorable for his Shanghai visit, he was compelled to return to Tokyo the end of September.

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* In September after the failure of the KAWAGOYE-Kao conversations, chiefs of bureaus of the foreign office, and war and navy ministries talked over how to deal with the peace problem. They agreed that if the peace endeavor was to be continued, they must ask for the good offices of a third power to find a settlement on the terms of the August plan. This opinion was approved by the premier, the foreign, war and navy ministers.

At the same time the chiefs of the bureaus assembled to discuss government policy in connection with the China affair but could not attain agreement on two or three points. The witness conferred with the war and navy vice-ministers and settled the points and this was decided as government policy on October 1st, with the approval of the premier and the foreign, war and navy ministers.

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29696 The point demanding special attention was that the gist of the policy for the settlement of the China affair * stipulated to bring the affair to the quickest possible conclusion, to act in conformity with international law, to limit the scene of battle chiefly within the Hopei, Chahar provinces and the Shanghai district and strive for the settlement of the North China question along the lines that the said area should be placed under the administration of the Chinese Central Government.

On Sept 21 the League asked Japan to participate in the 23 Power Consultative Committee. Japan however had seceded from the League and had maintained a firm attitude not to participate in League political activity. On September 25th Japan replied that it could not accept.

29697 October 20th and November 7 1937 Belgium invited Japan to participate in the Brussels Conference which was to be held in accordance with Article 7 of the Nine Power Pact. Japan was compelled to reply to the Belgium request * that it could not accept.

29698 * Article 7 of the Nine Power Pact states that the contracting powers agreed that whenever a situation arose which in the opinion of any of them involved application of the treaty and rendered desirable a discussion of applying it there should be full and frank communication between the contracting powers concerned. The foreign office interpretation of this was that either in the light of the wording or in consideration of the circumstances under which this article was discussed at the first meeting of the sub-committee for the Pacific and Far Eastern Problems of the Washington Conference December 2 1922, it was evident that "communication" meant communication in any form and not necessarily in the form of a conference.

Proceedings of the subcommittee showed that generally communication should be made through ordinary diplomatic channels and communication in the form of conference was not in the least expected. In accordance with this interpretation the foreign office understood that to reject participation in the Brussels conference was not against the provisions of the Nine Power Pact inasmuch as participation was expected to be detrimental to Japan's internal affairs.

29699 * Early in September British Amb. Craigie arrived at his post. He set about settling the case of Amb. Huggessen's accident of Aug.26 and solved this after talks with vice-navy minister YAMAMOTO and the witness.

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Oct. 27th HIROTA in an interview with the Ministers of Britain and the U.S., Germany and Italy told them Japan could not accept the invitation to the Brussels Conferences but desired either of the four powers to use its good offices to bring about direct peace negotiations on the terms of the August plan. As Craigie informed HIROTA of Britain's willingness to use its good offices, HIROTA accepted and there were several exchanges of views. It was realized later that there was strong army opposition against Britain as a go-between and the scheme had to be held in abeyance.

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* A similar offer was also made by Grew at about the same time on condition that both Japan and China asked for it. This offer did not materialize. The army maintained that the good offices of Germany should be asked but HIROTA hesitated and doubted if the services of Germany alone which did not have a strong voice in China, were really effectual. In the meantime Craigie suggested the joint services of Britain, the U.S. and Germany. But the army's objection against participation by Britain and the U.S. was too obvious.

HIROTA then asked Craigie to take the initiative in requesting Germany to let the other powers participate, for inasmuch as Germany herself had agreed to act with Britain and the U.S. the army also might consent. But Craigie reported later that the German ambassador told him that as the approach to China still remained in the stage of sounding * consideration would be given later to the British and U.S. proposal when China responded to Japan's efforts.

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In December, HIROTA received a personal letter from German Amb. Dirksen that he had an important matter to discuss with him. HIROTA called on Dirksen and was told that when the German Ambassador to China, Trautmann, met Chiang Kai-Shek on Dec. 2, Chiang Kai-shek revealed he had no objection to starting negotiations on the basis of the Japanese terms.

Derksen asked HIROTA if there was no alteration in the peace terms of the August plan yet. HIROTA then had the director of the East Asiatic Bureau confer with authorities in the War and Navy Ministers and it was made clear that neither had objection to the terms of the August plan. The question had to be submitted to the Liaison Conference * of the government and army and navy and it was placed on the agenda for the December 20th meeting.

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The fall of Nanking on Dec 13 stiffened Japanese feeling toward China. For example Home Minister SUYETSUGU was known for his drastic attitude toward China and against the peace negotiation itself. At the Dec.20th meeting of the Liaison Conference, SUYETSUGU laid his strong opinions before it and after a heated discussion the conference decided upon the four fundamental terms which were less compromising than those of the August plan.

29703 These terms provided that China shall be requested to give up its pro-Comintern and anti-Japanese, anti-Manchoukuo policy and cooperate with Japan and Manchukuo in their anti-comintern policy. Unfortified zones shall be set up and special administrative machineries established in needed areas. *Close economic relations should be created among the three nations. China was requested to make necessary reparations.

Japan expected a reply before Jan 5 or 6 of the following year. These terms were presented to Dirksen and submitted to China through Trautmann on Dec. 26th but no reply came by the appointed date. The foreign office urged the reply several times through Germany and as late as Jan 13th the Chinese Foreign Minister replied to Trautmann that as the peace terms were too wide in scope, China wished to know further details in order to make a final decision.

29704 Dirksen conveyed the Chinese reply to HIROTA January 14th. As to the contents of the four fundamental terms a detailed explanation had already been given through the German government. It was incomprehensible that China * should request further details. In the light of the progress of past negotiations between the two governments since the outbreak of the Incident Japan could not but regard it as an artifice to delay settlement and the foreign office was greatly discouraged by this reply.

The reply was discussed at the cabinet council January 15th. The council also regarded it as a delaying artifice and decided to close the negotiations. The declaration not to deal with the Nationalist Government hereafter was made on Jan 16th. Regarding the term not to deal with the Nationalist government hereafter, it was first decided to use the expression "to discontinue the negotiation" but the Foreign Office opposed such an expression.

29705 * It was decided that the more or less vague expression be adopted. This proved that the foreign office intended to leave scope enough to resume negotiations.

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In March Italian authorities at Shanghai frequently transmitted to the Japanese Embassy the Nationalist Govt's intention concerning the peace terms. The witness remembered that HIROTA gave tacit consent to the Shanghai Embassy to keep in touch with Italian diplomatic authorities. HIROTA always considered the safeguarding of third power interests in China even after the outbreak of the Incident. He mentioned this several times in announcements of the government and exerted all efforts in its favor.

29706 * In April or May 1938 he ordered the witness in response to a British offer to discuss with Craigie questions regarding the maintenance of the Chinese customs system and the modification of tariff. *As a result of several meetings an agreement was concluded and made public. The agreement restrained the modification of the tariff rates within a certain limit so it might not be against the interests of third powers. It also aimed at forestalling seizure of Chinese customs by the Japanese army.

Craigie had kept close contact with the United States and French Ambassadors before the agreement was arrived at and he told the witness that both countries had no objections to the agreement. HIROTA exerted efforts to keep the effects of military measures upon the interests of third powers within the least limit through negotiations with those third powers.

The originals and copies of the telegrams referred to in the affidavit had been lost by fire and were not in the files of the foreign office.

Exhibit 3261, the deposition of HAYASHI, Kaoru of the foreign office testified that the telegrams referred to in the witness' affidavit were lost by fire and could not be found in the files of the foreign office was received in evidence but not read.

29708 * The witness was handed Exhibit 3260. He stated that he remembered HIROTA's having a conversation with the British Ambassador before Oct 27 1937. HIROTA unofficially requested Craigie to offer his good offices to enable Japan and China to conduct direct negotiations between themselves.

29709 * Conversations between the two were held from the end of Sept. to the beginning of October. Since the Incident HIROTA had met several

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times with Chinese Ambassador, Hsu-Shish-ying and had talked with him regarding settling the matter.

29711 * The witness stated he did not attend on every occasion.

29712. * HIROTA always told the witness about these matters and Craigie later told him that on such and such a day he had such and such a conversation with HIROTA. These reports were received from HIROTA in his capacity as vice-foreign minister. It was the witness' duty to keep in close touch with HIROTA on all such matters.

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29740

The witness stated that at the conversations * between Craigie and HIROTA prior to 27 October, 1937, Craigie proposed he would do anything within his power to assist in recovering peace. HIROTA replied he desired the assistance of Britain, which he felt was held in confidence and trust by China.

29741

At first HIROTA expressed the desire that inasmuch as he hesitated to present terms as a representative of Japan, he would like to have the terms proposed as though coming from very reliable quarters. * Craigie said that that would not do, and they would like to convey the proposal as coming from the Japanese Foreign Minister.

HIROTA then said his name might be quoted, but only as his individual views. Craigie consented. This procedure was customarily used in diplomatic negotiations. At first there were informal talks, developing into more formal conversations.

29742

One of the personal views HIROTA expressed was to have a demilitarized zone in North China, from which Chinese and Japanese troops would withdraw. He also desired to adjust relations on a practical basis between Manchukuo and North China. * He desired to have China control anti-Japanese movements and to have recognized the principle of equal economic opportunity in North China. These views were conveyed by Craigie to the Chinese government, which conveyed their desires two or three times to HIROTA by Craigie.

CROSS-EXAMINATION BY MR COMYNS-CARR.

29745

* The witness stated that he was not present at the Cabinet Meeting on 9 July, 1937, but he got information about it from HIROTA. He had referred in it to their seeking a prompt local settlement.

29746

* In regard to the terms agreed between General HASHIMOTO, Gun, and the Chinese 29th Army on 11 July, they were decided on the spot, and not discussed by the Cabinet on 9 July. He was not saying that the Cabinet on 9 July left it to the local commander to enforce any terms he thought fit. Two major principles were decided by the Cabinet on 9 July. The first was that every effort be made to seek a peaceful settlement, and the second was that settlement be made locally.

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29747

* The Cabinet policy decided on at the meeting was to see that the incident was settled promptly on the spot, and the military authorities there were to negotiate with this policy in mind. Inasmuch as the Cabinet was not informed of full details of the situation as of 9 July, their decision was only with reference to general policy. It was not left to the local commander to decide terms. Negotiations were to be conducted on the spot, but final decisions were to be made by the government.

29748

* With regard to agreements between governments, any terms the local commander might secure from the local Chinese commander would not be effective unless approved by both governments. The terms were effective insofar as they concerned the armies of both sides on the spot.

When asked if it was also left to the local commander's discretion what means he should adopt to compel the Chinese army to accept his terms, the witness stated that general policy was to effect and promote local settlement in accordance with the policy of non-expansion and non-aggravation. The local commander was permitted to conduct negotiations on terms of settlement in so far as they accorded with this general policy.

29749

* When again asked if it were left to the local commander's discretion what means he should adopt to compel the Chinese to accept his terms, the witness answered that he was instructed or ordered to carry on negotiations. It was not so that it was obvious to the witness and HIROTA that nobody would have accepted the terms except under threat of force.

29750

* It was true that the Foreign Office had representatives in various parts of China. He didn't recall any special instruction to them to find out the real facts as to the original outbreak of the Incident. * He didn't recall any special instruction to that effect, but the representatives, as a matter of course, reported anything they heard or learned about to the Foreign Office.

29752

Asked if they discovered that the Chinese denied the Japanese Army's version of the matter, the witness stated they confirmed some. The Chinese confirmed some parts of the Japanese version and denied others.

The Foreign Office considered and studied information from all possible sources, as well as the views of the Chinese authorities. HIROTA did not accept all the Japanese Army's story.

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29753

* The witness did not think the trouble had arisen because the Japanese chose to hold maneuvers up against the position where Chinese forces were entitled to be stationed. Asked why the Chinese had to withdraw from a place where they were entitled to be in order not to cause untoward incidents, the witness stated it was his understanding that both sides negotiated to satisfy their mutual interests to avoid further trouble. It was discussed between the two to satisfy their interests to arrange that troops on both sides would be kept apart.

29754

Regarding the results of the Cabinet meeting of 11 July which he had mentioned in his affidavit, the witness heard this from HIROTA. * It was not true that the actual result of the meeting was that the Cabinet made an important determination and decided to take necessary steps regarding the dispatching of troops to North China. As he had said in his affidavit, in the case of any eventuality preparations needed to be considered. He didn't recall HIROTA taking a hasty measure for strengthening diplomatic staffs in North China.

The witness did not know that what the prosecutor had been reading to him was from the Office Report for 1937 published by the Secretariat of the Foreign Ministry on 1 December, 1937. (Exhibit 260).

29755

* The witness had not heard that the War Minister insisted on sending immediate reinforcements to the five thousand men in Tientsin, or that the whole Cabinet, including HIROTA, consented to his proposal. He did not know if the War Minister said to the Emperor that he would send a large force to smash the opposition and settle the issue in a short time.

He did not recall that immediately after the Cabinet meeting of the 12th, a message came in stating that the Chinese had agreed to the terms, nor did he recall that the message said that the Chinese answer was very sincere. He did not recall the Army General Staff expressing the view that this was a Chinese ruse to make the Japanese stop military preparations.

29756

* Asked if the reinforcements from the Kwantung and Chosen armies were sent in spite of Chinese acceptance, the witness stated that they accepted but did not carry it into execution. Reference was made to the witness' affidavit where he said "These terms seemed to be carried by the Chinese into execution somehow or other before July 22".

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Asked if he now said that was untrue, the witness replied that he didn't know how his words had been translated, but in Japanese he said it seemed as though the terms would be carried out. He did not say they were carried out.

29757

* When shown the English copy of his affidavit, the witness stated the English might convey such a meaning, but what he really wished to say was set forth with clarity in the Japanese text. He wanted to point out that even in the English text, the words are "seemed to be" and not "to have been".

29758

He had never thought of the agreement by the Chinese as merely a ruse to stop Japanese military preparations. * Asked if contingents from the Kwantung and Chosen armies were in fact sent to North China immediately after 11 July, the witness stated that at that time the Foreign Office was not familiar with the details of military movements. Asked if it were not essential for them to find out what they were doing if they were trying to check military expansion, the witness stated that every effort was made to inform themselves, but as to the time and type of military actions these matters belonged to the category of strict military secrets, known only to those vitally or directly concerned.

29759

* Asked if HIROTA took any steps to find out whether reinforcements had been canceled when news came of the Chinese acceptance of the army's terms, the witness stated that as he had said, the Chinese military authorities accepted, but at that time they received no reports that they had carried out the terms. He did not know whether HIROTA took any steps to find out what measures had or were being taken. * He did not recall whether HIROTA took any steps to find out whether reinforcements had, in fact, been sent. The witness heard later that they had been sent.

29760

29761

* They got reports that the Nanking government was dispatching reinforcements to North China from the army as well as Foreign Office authorities. The troops were being moved by the Chinese government in Chinese territory, it was true. When asked what right they had to object, the witness said not object but negotiate. It was not true that the position they took was that the army could send what reinforcements it liked into Chinese territory, but the Chinese army must not move reinforcements within its own territory.

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Asked if that was not what it amounted to, the witness stated that such negotiations were carried out mutually between the two to avoid opportunities for clashes. By that he didn't mean that there would be no clashes if the Japanese troops went there and Chinese troops did not.

29762

* Reference was made to the witness' affidavit where it stated that the Foreign Office ordered Councillor HIDAKA on 16 July to ask the Nanking Government not to interfere with the execution of the three terms and check the northward movements of its armies. When asked what right they had to do that, the witness stated it was natural that by such negotiations a peaceful settlement could be effected.

The witness was reminded that he had said it was not left to local commander's discretion to settle what terms they pleased, but that the two governments would have to confirm them. He was then asked why HIROTA called upon Nanking not to interfere with them. He stated there were prospects that the matter could be settled locally. Because they entertained these prospects, they desired that Nanking approve the idea of a local settlement and assist in the execution of the terms.

Regarding the draft of terms referred to in his affidavit which he said was approved on August 5 or 6 by HIROTA, SUGIYAMA, the Navy Minister and the Premier, he did not know where the draft was now. He had taken steps to find it, but because many of the Foreign Office files had been burned he could not locate it.

29763

* Asked why he had not included it in his affidavit as having been burned, the witness stated he thought there was no objection to testifying from memory.

29764

HIROTA did his best to have the Shanghai Incident settled locally. Asked if he expressed approval of increasing Japanese marines in Shanghai and of sending additional warships there for the purpose of local settlement, the witness stated that HIROTA had no alternative but to give his approval to this action. In spite of the existence of a demilitarized zone in Shanghai, the Chinese Peace Preservation Corps infiltrated, causing a need to protect the lives and property of Japanese residents and the safety of the very small naval landing party there.

29765

* The witness thought HIROTA did give his consent when the question arose at a meeting of the Cabinet.

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Asked if HIROTA said that on 13 August, 1937, the causes of the Incident were the assassination of Lieutenant OYAMA, the rousing of excitement in Shanghai by the increased number of Japanese warships and of marines to three thousand, the witness said he had no recollection of ever having heard that. Various reports on the OYAMA case were assembled and studied.

29766 It was not true that they came to the conclusion that the reports from the navy on the spot were obvious nonsense. Every effort was made to compare the reports sent also by Foreign Office authorities to find out the true facts. * He did not consider the navy reports nonsense.

To the witness was quoted a purported statement of HIROTA that if they should announce the issuing of a mobilization order, the situation would be troublesome, so that at the Cabinet meeting of 12 August it was decided mobilization orders would be issued but not announced. The witness stated he had no recollection of this statement.

Regarding the negotiations of 24 September, 1937, he thought there was something to the effect that the Cabinet decided to mobilize four divisions and have another four in readiness.

29767 * Regarding the discussions between HIROTA and CRAIGIE, the approach was made by Craigie, who said he would be happy to assist in the negotiations.

To the witness was quoted a purported statement of HIROTA's that his personal idea would be to draw a line slightly south of Tientsin and Peiping, and work out a demilitarized zone in which neither Japanese nor Chinese troops would be stationed. The witness stated that he could not acknowledge the expression was correct or accurate, word for word.

29768 * He didn't recall whether the word "recognition" was used, but the terms "ceasing of anti-Japanese movements" and "defense against communism" were used. In the phrase, "The maintenance of equal rights in China", he understood the words were "equal opportunities".

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29769 Regarding the demilitarized zone, the place to be demilitarized was Chinese territory. Asked what right they had to demand that Chinese troops be turned out of Chinese territory, the witness stated there was no permanent meaning to that at all. It was simply a temporary measure to avert possible clashes. * Japan had the right to station troops in North China under the provisions of the Boxer Protocol. They did this in accordance with the original provisions, but there were some gradual departures from the Protocol.

 Asked if by 26 September 1937, they were not covering a large area not mentioned in the Protocol, the witness stated that was as a result of hostilities.

 With regard to the terms, recognition of Manchukuo, ceasing of anti-Japanese movements, and defense against communism, HIROTA had for years been trying to persuade China to agree to those terms, but he was not now using the opportunity of Japanese Army successes to compel them to do so.

29770 * The witness understood that HIROTA considered this to be a most opportune moment to bring about fundamental peace and good will with China. It was not the case that HIROTA was using the fact of a state of warfare and army success to try to compel them to adopt what they had not been willing to adopt in years of negotiations.

 It was nothing in the nature of an ultimatum, and they were merely terms HIROTA had Craigie convey to the Chinese government as his own personal views and to invite the Chinese to enter into negotiations on the basis of the proposal. They were not proposed as a way of escaping from the warfare which was in progress.

(Translation)

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE UNITED STATES OF AMERICA, et al.

- vs -

ARAKI, Sadao, et al.



SWORN DEPOSITION

Deponent: HORINOUCI, Kensuke.

Date of birth: March 30, 1886.

Domicile: 4-871 Shimo-Meguro, Meguro-ku, Tokyo.

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

(1) I received appointment as a diplomatic attache on December 2, 1911, and remained in the diplomatic service until I retired on December 21, 1940. During that period I was appointed Vice-Minister for Foreign Affairs under Mr. Hachiro Arita, the Foreign Minister of the Hirota Cabinet, on April 10, 1936, and remained in the office until I was appointed Ambassador to the United States on October 15, 1938. Of the same period, I was under Foreign Minister Hirota in the First Konoye Cabinet from June 4, 1937, to May 26, 1936.

(2) Early in June, 1937, the Hayashi Cabinet resigned en masse, and Prince Konoye received an Imperial mandate to form a new Cabinet. Rumours were then abroad, in connection with the appointment of the Foreign Minister, that the Premier was to hold an additional office of Foreign Minister, or that he would select for that office someone outside the diplomatic circles or from among the military. As I was then Vice-Minister for Foreign Affairs, I called on Marquis Kido, who was the Chief Secretary to the Lord Keeper of the Privy Seal and was Prince Konoye's close friend, and expressed the opinion prevailing in the Foreign Office to the effect that to have the Premier hold an additional post of Foreign Minister was undesirable, and that for that post someone should be appointed from among those who were richly experienced in diplomacy, asking him to inform Prince Konoye of that opinion.

The Konoye Cabinet was formed on June 4, and Mr. Hirota was appointed Foreign Minister to the relief of the Foreign Office staff.

I stayed, in accordance with Mr. Hirota's wishes, in the office of Vice-Minister for Foreign Affairs. On that occasion, Mr. Hirota told me that though he did not wish to assume the office of Foreign Minister, he was compelled to accept the appointment by the ardent request of Prince Saionji as well as Prince Konoye.

Baron Harada, private secretary to Prince Saionji, also told me that, by order of the Prince, then at Okitsu, he conveyed by telephone the latter's request to Mr. Hirota in Tokyo to the effect that, as that was the first chance for Prince Konoye to form a cabinet, and as he was little experienced in diplomacy, Prince Saionji desired to have Mr. Hirota, who was of rich experience and sound opinions, join the Cabinet to assist the new Premier.

(3) The negotiations between the Japanese and Chinese Governments for improving their relations after the Manchurian Affair had been continued, though intermittently, since 1934 or thereabouts. The two Governments took the opportunity of the Cheng-tu incident of August, 1936, and the Pakhoi incident of the same year to resume the negotiations seriously in Nanking with a view to adjusting the relations between the two countries. The negotiations, however, were discontinued towards the end of that year, leaving unsettled all other questions but the aforesaid two incidents. Meanwhile, the Suiyuan incident which took place at the end of 1936 seemed to have flattered the Chinese military to a triumphant feeling, and the Sian incident which occurred almost simultaneously was reported to have prompted the Nationalist Government to adopt the pro-Comintern and anti-Japanese policy. Such was the general trend of affairs affecting China and Japan before the Marco Polo Bridge incident broke out.

(4) The Foreign Office did not have the slightest inkling of this incident. The official telegram reporting its outbreak reached Tokyo on July 8, 1937, the following day. Foreign Minister Hirota was at his villa at Kugenuma, and had already been in bed when he received a telephone call from the Foreign Office, reporting the outbreak of the incident.

The Foreign Office's policy was to make its utmost effort in seeking an amicable settlement of the matter as soon as possible. An extraordinary meeting of the Cabinet council was held on July 9, and decided the attitude of the Government to hold fast to the policy to arrest the spread of the disturbance, and to seek a prompt, local settlement of the matter. This decision was made largely due to the opinion of Foreign Minister Hirota.

(5) Meanwhile, in North China, Major-General Gun Hashimoto, the then Chief of the Staff of the North China Stationary Force, and others negotiated with the Chinese 29th Army, reaching an agreement at 8:00 P.M. on the 11th. The Chinese 29th Army accepted the following demands of the Japanese Army.

(I) The representative of the 29th Army should express their regret, punish the responsible, and make a vow that recurrence of such event should be prevented.

(II) As the concentration of Chinese troops near Fengtai where Japanese forces are stationed is liable to cause untoward incidents, the Chinese troops stationed at the citadel of the Marco Polo Bridge and Lungwangmiao should be withdrawn, and police forces should take their places.

(III) Anti-Japanese organizations should be kept under strict control.

These terms seemed to be carried by the Chinese into execution somehow or other before July 22.

But, in the meantime, there occurred frequently skirmishes between the Japanese and the Chinese troops, as the latter, once withdrawn, reappeared in the areas in question, and the situation called for prudence and caution.

(6) Prior to this, it was arranged that an extraordinary session of the Cabinet council was to be held on July 11, and it was reported that the Army would propose preliminary measures for mobilization. The Foreign Minister was again at his villa at Kugenuma from the evening of July 9. The programme was immediately reported to him by telephone, and on the morning of July 11, he arrived at Shimbashi Station around 9 o'clock. As soon as he reached the Foreign Office, he assembled myself, East-Asiatic Director Ishii and European-Asiatic Director Togo in his office to deliberate upon the reported Army's proposal, and it was decided that the proposition should be opposed. The

Foreign Minister soon attended the Cabinet meeting, and the following results were reported afterward.

First, War Minister Sugiyama explained the plan for the preliminary arrangements for mobilization. It was made clear by this explanation that the plan was not to make immediately arrangements for mobilization. It might have more properly be said just preparing for the preliminary arrangements of mobilization. It amounted to the decision of the Cabinet to envisage eventual preparatory measures for mobilization in case the situation assumes more serious proportions. The Foreign Minister suggested, however, that the matter might have already been settled locally by that time, and took the position that the consideration of the Army proposal in question should be postponed until further reports reached the Government.

Thus the discussion was once postponed. But, the awaited report being so late in coming, the Cabinet council was assembled again on the same day and was compelled to approve the Army proposal which provided that, in order to secure the apology and future guarantee by the Chinese, necessary forces in the home land should also be mobilized while contingents from the Kwantung Army and the Chosen Army were to be despatched to reinforce the North China Stationary Force, and that all possible efforts should be made for a peaceful settlement of the incident in conformity with the policy of local settlement, and also that the despatch of the troops should immediately be stopped when the above-mentioned object was attained and the apology and future guarantee were fulfilled by the Chinese.

Foreign Minister Hirota consented to this decision with reservations that the despatch of troops, even when it was carried into execution, should be exclusively for the purpose of protecting the Japanese residents and securing the safety of the North China Stationary Force itself which was comparatively small in strength, and that the decision for the mobilization of home troops was nothing more than an attitude of preparedness as contended by the War Minister.

(7) Holding fast to the policy of speedy local settlement of the incident, the Foreign Office was determined to spare no effort for its attainment. By the Foreign Minister's order, I asked Mr. Yang Yun-chu, the Chinese Charge d'Affaires, to call at the Foreign Office on the morning of July 11, and called the attention of the Chinese Government to the critical situation in North China, urging the necessity of a quick local settlement. I also told him that instructions to the same effect had been given early in that morning to the Japanese Ambassador to China.

(8) Mr. Kawagoye, the Japanese Ambassador to China, was on his journey to North China, at that time, leaving Shanghai on the very day of the outbreak of the incident, and Councillor Hidaka executed the instructions on his behalf. Meanwhile, we successively received authoritative reports that the Nanking Government, in spite of our representations made at Nanking as well as at Tokyo, were despatching reinforcements, troop after troop, to North China. The Chinese 29th Army also, probably influenced by such military actions of the Nanking Government, became to show a dubious attitude in connection with the execution of the three terms of settlement agreed upon on July 11. The Foreign Office, thereupon, ordered Councillor Hidaka by wire on July 16 to call upon the Nanking Government not to interfere with the execution of the three terms, and to check the northward movement of the Chinese Central Armies. Nevertheless, the Central Armies were reported still advancing northward as before.

(9) In view of such attitude on the part of China, the Cabinet decided at its meeting of July 20 that, in order to meet emergency, preparations should be made for the mobilization of three home divisions.

The Foreign Office, however, did not give up the hope of amicable settlement, and had Councillor Hidaka pursue in earnest the negotiation in Nanking. Unfortunately, there again occurred armed clashes between the Japanese and Chinese forces in North China since July 25 or 26. The situation thus making serious developments, the orders for the mobilization of three home divisions were at last issued on July 27. From the early morning of the following 28th onwards, the hostilities in North China went on spreading. Moreover, Shanghai and its vicinity, where the situation had been comparatively tranquil, turned disquieting. Thus all the efforts of Councillor Hidaka in Nanking proved fruitless.

(10) In Tokyo, Mr. Dodds, the British Charge d'Affaires, called on me on July 15, and asked if Britain could be of any service to Japan in settling the incident. I told him in reply that I thought there were prospects of local settlement. From that day on till about July 20, Mr. Dodds came to see me almost every day and kept me informed of the gist of the conversations between Ambassador Huggessen and the Chinese Foreign Minister. On these occasions, I always told him that we had not yet given up our hope to settle the incident locally. On the 22nd, American Ambassador Grew made an offer to Foreign Minister Hirota that his Government would render its services, if necessary, in the way short of mediation. But the Foreign Minister replied that, in the light of the actual situation of North China about the 19th, there was still some hope that the Agreement of August 11 might be carried into execution. Actually the Japanese Foreign Office had not given up the hope of local settlement then, and was making desperate efforts.

(11) It was in July that a draft of terms of settlement with China was worked out as a result of the deliberation among the competent authorities of the Foreign Office, the War Office and the Ministry of the Navy. It consisted of three main points: (A) the establishment of unfortified zones along the River Pai-ho, and the withdrawal of Japanese and Chinese troops from the areas specified as such; (B) no annexation of territories; and (C) no indemnities. The draft was approved on August 5 or 6 by the Foreign Minister, the War Minister, the Minister of the Navy and the Premier.

(12) Early in August, Foreign Minister Hirota made up his mind to despatch Mr. Tatsuichiro Funatsu, an authority on China, to Shanghai, in an attempt at restoring peace between Japan and China. Mr. Funatsu's mission was to have talks, on the lines of the said peace terms decided upon in August, with Mr. Kao Tsung-wu, the Chief of the Asiatic Bureau of the Chinese Foreign Office, who had a direct contact with Generalissimo Chiang Kai-shek. Mr. Funatsu left Tokyo about August 5, arriving at Shanghai on the 7th. Ambassador Kawagoye, on the other hand, returned to his post in Shanghai almost at the same time. And, on deliberation between the two, it was decided that Ambassador Kawagoye in person would negotiate with Mr. Kao Tsung-wu. The interview took place on the 8th. As the Ambassador revealed the three terms of the August plan as his personal propositions, Mr. Kao stated that he thought there were prospects of peaceful settlement between Japan and China upon these terms, and promised that he would promptly return to Nanking to make a report to Generalissimo Chiang Kai-shek, and then again see Ambassador Kawagoye in Shanghai. But, it happened that a Japanese naval officer was killed by Chinese soldiers on August 9 (the so-called Oyama incident), and from the 13th on, both Japanese and Chinese forces entering into hostilities even in Shanghai district, the communication was utterly suspended between Nanking and Shanghai. The Kawagoye-Kao interview ended, in this way, without tangible results.

(13) Even after that, Foreign Minister Hirota did not give up his hope to find a clue of an amicable settlement of the incident. He asked Mr. Arita, who had been Foreign Minister in the Hirota Cabinet, to go to Shanghai where the leading figures of the Nanking Government gathered often, and stay there for some time to seize a chance of having informal talks with them. Mr. Arita accepted it, and, on deliberation between the two, it was so arranged that he would first visit Manchuria and North China, staying there until the Foreign Minister wired him and let him know the proper time to start for Shanghai. Mr. Arita left Tokyo on August 28 on his tour of inspection in Manchuria, Peking, Tientsin and other places, but, as the situation did not take a favourable turn for his visit to Shanghai as expected, he was compelled to leave Dairen for Tokyo at the end of September.

(14) It was in September after the Kawagoye-Kao conversation proved failure that the competent Chiefs of Bureaus of the Foreign Office, the War Office and the Ministry of the Navy assembled to talk over how to deal with the peace problem thereafter, reaching an agreement that, if the endeavour after peace was to be continued at all, there was no other way for it but to ask for the good offices of a third power to find settlement with China on the terms of the August plan. This opinion was presented to the Government, and was approved by the Premier, the Foreign Minister, the War Minister and the Minister of the Navy.

Almost at the same time as the above, the Chiefs of the Bureaus concerned assembled, by the orders of the Ministers concerned, to discuss the policy which the Government was to adopt in connection with the various problems of the China Affair. They, however, could not attain agreement on two or three points. Thereupon, I conferred with the Vice-Ministers of War and of the Navy, and settled the points. This was decided as the policy of the Government on October 1, with the approval of the Premier, the Foreign Minister, the War Minister and the Minister of the Navy. The point which demands our special attention is that this "Shina-Jihen Taisho Yoko" (The Gist of the Policy for the Settlement of the China Affair) stipulated (a) to bring the China Affair to the quickest possible conclusion, (b) to act strictly in conformity with the international law, (c) to limit the scene of battle chiefly within the provinces of Hopei and Chahai as well as Shanghai district, and (d) to strive for the settlement of the North China question along the lines of policy that the said area should be placed under the administration of the Chinese Central Government.

(15) On September 21, the League of Nations requested the Japanese Government to participate in the Twenty-Three Power Consultative Committee. Japan, however, had seceded from the League on March 27, 1933. Since then, it had maintained a firm attitude not to participate in any political activity of the League of Nations. Moreover, the people of Japan seemed to harbour a strong hostile feeling against it ever after the Manchurian Affair. Under such circumstances, it was quite impossible that the League's request of September 21 should be accepted by the Japanese public opinion. The Japanese Government, thereupon, made a reply on September 25 to the effect that it could not accept the said request of the League of Nations.

On October 20 and November 7 of 1937, the Belgian Government invited Japan to participate in the Brussels Conference which was to be held in accordance with the provisions of Article VII of the Nine Power Pact. But the public opinion of Japan was strongly against the participation in the said Conference. As it was considered by the Japanese people, that the said Conference was nothing but an extension of the activity of the League of Nations, the Japanese people's feeling against it was all the more hostile. As Ambassador Grew writes in his "Ten Years in Japan," the political parties as well as newspapers were in one, in effect, in opposing to Japan's participating

in the Brussels Conference, and the Japanese Government was compelled to reply to the Belgian requests of October 20 and November 7, on October 27 and November 12 respectively, that it could not accept the same. With respect to Article VII of the Nine Power Pact, the Foreign Office authorities held the following interpretation:

Article VII of the Nine Power Pact runs: "The contracting Powers agree that whenever a situation arises which in the opinion of any one of them involves the application of the stipulations of the present Treaty, and renders desirable discussion of such application, there should be full and frank communication between the contracting Powers concerned." Either in the light of the wording of the Article or in consideration of the circumstances under which the said Article was referred to discussion at the first meeting of the Subcommittee for the Pacific and Far Eastern Problems of the Washington Conference (held on February 2, 1922), it is evident that "communication" here means communication in any form, and not necessarily that in the form of conference. Moreover, the proceedings of the said Subcommittee show that the communication should be made, as a general rule, through ordinary diplomatic channels, and the communication in the form of conference is not in the least expected.

In accordance with such interpretation, the Foreign Office understood that to reject the participation in the Brussels Conference was not against the provisions of the Nine Power Pact inasmuch as the participation was expected to be detrimental to the internal affairs of Japan.

(16) Early in September, British Ambassador Craigie arrived at his post in Tokyo. He was such an enterprising man that he set about settling the case of Ambassador Huggessen's accident of August 26 as soon as he took up his duties. He had frank talks with Vice-Admiral Yamamoto, the Vice-Minister of the Navy, and myself, succeeding in solving the problem soon.

On October 27, the Foreign Minister, in an individual interview with the Ambassadors of Britain, the United States, Germany and Italy, told them that the Japanese Government could not accept the invitation to the Brussels Conference, but desired to have either of the four powers use its good offices for bringing about direct peace negotiations between Japan and China upon the terms of the August plan. And, as the British Ambassador soon called upon the Foreign Minister and informed him of his Government's willingness to use its good offices for negotiations between the two countries, the Foreign Minister accepted. Between them there were several exchanges of view concerning terms of settlement. But, as it was realized afterwards that there was strong opposition within the Army against Britain acting as a go-between, the scheme had to be held in abeyance.

A similar offer was made also by American Ambassador Grew almost at the same time, though on condition that both Governments of Japan and China asked for it. This offer of the American Ambassador, however, did not materialize after all.

(17) The Army maintained to ask for the good offices of the German Government. But the Foreign Minister hesitated, as he doubted if the services of the German Government alone, which did not have strong voice in China, were really effectual. In the meantime, British Ambassador Craigie made a suggestion for the joint services of Britain, the United States and Germany, for fear of the inefficacy of the efforts of the single-handed Germany. The Army's objection against the participation of Britain and the United States, however, was too obvious. The Foreign Minister, thereupon, asked Ambassador Craigie to take the initiative in requesting Germany to let the other powers participate in the attempt, for it was expected that, inasmuch as Germany

herself agreed to act in concert with Britain and the United States, the Army also might possibly consent to their cooperation. But, it was reported later, by Ambassador Craigie that, in response to his request he was told by the German Ambassador to the effect that, as the approach to the Chinese Government still remained in the stage of sounding, consideration would be given later to the proposal of Britain and the United States after it attained the stage that China responded to the Japanese efforts.

One day in December, the Foreign Minister received a personal letter from German Ambassador Dirksen saying that he had an important matter to discuss with the Foreign Minister, and that he wished to invite the Foreign Minister to tea, as he could not get out on account of illness. The Foreign Minister called upon the German Ambassador, and was told that, when Herr Trautmann, the German Ambassador to China, met Generalissimo Chiang Kai-shek on December 2, the head of the Chinese Government revealed he had no objection to starting peace negotiations on the basis of the Japanese terms. And Dirksen asked the Foreign Minister if there was no alteration in the peace terms of the August plan yet.

(18) The Foreign Minister, thereupon, had the Director of East Asiatic Bureau confer with the competent authorities of the War Office and the Ministry of the Navy, and it was made clear that both the Army and the Navy had no objection to the peace terms of the August plan.

The question, however, had to be submitted to the Liaison Conference of the Government and the Army and the Navy which had been set up a little before that, and it was placed on the agenda for the meeting of December 20. The fall of Nanking on December 13 had considerably stiffened the general feelings of the Japanese public towards China. Drastic opinions often appeared in the newspapers. As a matter of course, the Liaison Conference could not but be influenced by such circumstances. Home Minister Suyetsugu, for example, was supported by such general feelings. Claiming to give a smashing blow to China, he was known for his drastic attitude towards China, and was naturally against the peace negotiation itself. Unprecedentedly as Home Minister, he attended the December 20 meeting of the Liaison Conference which was held to deliberate upon the peace terms for China. He layed an extremely strong opinion before the Conference, and, after a heated discussion, the Conference decided upon the four fundamental terms of peace for China, which were naturally far less compromising than those of the August plan.

The four terms were as follows:

- 1) The Chinese Government is requested to give up its pro-Comintern and anti-Japanese, anti-Manchoukuo policy, and cooperate with Japan and Manchoukuo in their anti-Comintern policy.
- 2) Unfortified zones shall be set up in needed areas, and special administrative machineries shall be established in the said areas.
- 3) Close economic relations shall be created among Japan, Manchoukuo and China.
- 4) The Chinese Government is requested to make necessary reparations.

The Japanese Government expected the reply to the above to be given before January 5 or 6 of the following year.

(19) These four terms of peace were presented to Ambassador Dirksen with a detailed explanation. They were submitted to the Chinese Government through Ambassador Trautmann on December 26, but no reply was obtained by the appointed date.

The Foreign Office urged the reply several times through the German Government, and as late as January 13, the Chinese Foreign Minister replied to German Ambassador Trautmann to the effect that, as the Japanese peace terms covered too wide a scope, the Chinese Government wished to know their further details in order to make the final decision thereof. Ambassador Dirksen conveyed the Chinese reply to the Japanese Foreign Minister on January 14.

As to the contents of the four fundamental terms, however, a detailed explanation had already been given through the German Government. It was quite incomprehensible to us that the Chinese Government should make a request to know the contents of the terms to further details. In the light of the progress of the past negotiations between the two Governments since the outbreak of the incident, the Japanese Government could not but regard it as an artifice to delay the settlement on purpose. The Foreign Office was greatly discouraged by this reply of the Chinese Government.

The reply of the Chinese Foreign Minister was brought up for discussion at the Cabinet council of January 15. The council also regarded it as an artifice to delay intentionally the settlement of the incident, and had to decide to close the negotiation. The declaration "not to deal with the Nationalist Government hereafter" was made in this way on January 16.

(20) I should like to relate, by the way, what I know about the circumstances which caused the Japanese Government to use, in the manifestation of its serious intention, such a colloquial expression as "not to deal with the Nationalist Government hereafter", which is not necessarily clear in meaning. It was first proposed to use an expression "to discontinue the negotiation", at the conference of the competent authorities of the Ministries concerned. But the Foreign Office opposed to using such a plain and definite expression, and it was decided, after careful consideration, that the more or less vague expression as the above-mentioned should be adopted. This is a proof that the Japanese Foreign Office had the intention to leave scope enough to resume the negotiation for peace with the Nationalist Government. In March of that year, the Italian authorities at Shanghai frequently transmitted to the Japanese Embassy there the intention of the Nationalist Government concerning the peace terms which was sounded by the Italian Councillor then at Hankao. And I remember Foreign Minister Hirota gave a tacit consent to the Japanese Embassy in China keeping in touch with the Italian diplomatic authorities. Also his successor General Ugaki had Consul-General Nakamura negotiate in Hongkong for peace with Mr. Chiao Fu San acting for Dr. Kung Hsiang-hsi, head of the Administrative Yuan of the Chinese Government, several times in June, 1938.

(21) Foreign Minister Hirota always gave careful consideration to safeguarding the interests of the third powers in China. Even after the outbreak of the incident, he mentioned it several times in the announcements of the Government, and actually exerted all his efforts in its favour. I can cite a striking instance of such efforts of the Foreign Minister. In April or May, 1938, he ordered me, in response to an offer of the British Government, to discuss with Ambassador Craigie the questions regarding the maintenance of the Chinese customs system and the modification of tariff. We met several times, and, as a result, an agreement, satisfactory to both parties, was concluded, and made public. This agreement restrained the modification of the tariff rates, in the light of the real state of things in those days, within a certain limit so that it might not be against the interests of the third powers. It also aimed at forestalling the seizure of the Chinese customs by

the Japanese Army, Ambassador Craigie had kept close contact with the Ambassadors of the United States and France before the agreement was arrived at, and the British Ambassador confidentially told me that both countries had no objection to the said agreement. In this way, Foreign Minister Hirota exerted his efforts to keep the effects of military measures upon the interests of the third powers within the least limit, through negotiations with those third powers.

(21) The originals as well as the copies of the telegrams referred to in the present deposition, in (7) and (8), having been lost in the fire, they are not found in the files of the Foreign Office.

On this 21st day of August, 1947, at Tokyo.

(Signed) Kensuke Horinouchi (Seal)

Sworn to and subscribed before me on the above-mentioned date and place.

(Signed) Goro Morishima (Seal)

Witness

O A T H

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

(Signed) Kensuke Horinouchi (Seal)

Processed - Not served

(Translation)

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE UNITED STATES OF AMERICA, et al.

- vs -

ARAKI, Sadao, et al.

SWORN DEPOSITION

Deponent: HORINOUCI, Kensuke.
Date of birth: March 30, 1886.
Domicile: 871 Shimo-Meguro 4chome, Meguro-ku, Tokyo.

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

(1) I was appointed diplomatic attache on November 2, 1911, and remained in the diplomatic service until I retired from office on December 21, 1940. During that period, I was in the office of Chief of the Second Section, Bureau of European and American Affairs, under Mr. Hirota, Koki, as Director of the said Bureau, from September, 1923, to December of the same year, and then in the office of Director of the Bureau of Investigation and Research and Director of the Bureau of American Affairs under Foreign Minister Hirota from March, 1934, to March, 1936. Then I was appointed Vice-Minister for Foreign Affairs in April, 1936, and remained in that office until October 15, 1938, when I was appointed Ambassador to the United States. As Vice-Minister for Foreign Affairs, I served under Foreign Minister Arita of the Hirota Cabinet from April, 1936, to February, 1937, and under Foreign Minister Hirota in the Konoye Cabinet, from June, 1937, to May, 1938.

(2) The conclusion of the Anti-Comintern Pact was originated in the diplomatic opinions held by Foreign Minister Arita of the Hirota Cabinet. Mr. Arita had always been aware of the existence among Japanese chauvinistic elements who propogandized opening war against the Soviet, and always been of opinion that the Communists' activity in China is a thing that must be closely watched from Japanese standpoint. He, however, entertained a firm belief, obtained through his long career as a diplomat as well through his earnest study of political affairs of Europe, that Japan should maintain friendly relations with the Soviet Union. He was ordered home in October, 1936, to be appointed Ambassador to China. Immediately before he left Europe, he made a tour round Germany and Poland for a short period. And he was told, by Minister Ito and Military Attache Yamawaki at Warsaw as well as by Military Attache Oshima at Berlin, that the military power of the Soviet Union should by no means be slighted, to the confirmation of his old belief.

Mr. Arita regarded it necessary to take precautions against the activity of the Soviet Government in the Far East, and entertained also an opinion that the Japanese Government should naturally make some political arrangement with Germany, which was similarly interested in the activity of the Soviet Union. He felt, further, the necessity of alleviating the sense of international isolation prevalent among the Japanese general public after the Manchurian affair, and considered that the rapprochement between Japan and Germany was the most effectual way for that purpose.

The above statement is based upon what I was told directly by Mr. Arita.

(3) Mr. Arita, after arriving in Tokyo in January, 1936, was appointed Ambassador to China, and reached Shanghai toward the end of February. In the middle of March, however, he was ordered home to be appointed Foreign Minister in the Hirota Cabinet. He took office as Foreign Minister on April 2, and, shortly after that, I was appointed Vice-Minister for Foreign Affairs. At that time, he had an interview with Ambassador Mushakoji, who was just leaving Japan again to return to his post in Berlin. On that occasion, the Foreign Minister revealed the above-mentioned views of his Brussels days, and told the Ambassador that he considered it necessary to take some steps towards Germany. And at the beginning of May, about one month after the Ambassador left Tokyo, Foreign Minister Arita ordered him by wire that he should sound the intention of the German Government about the project to make a political rapprochement in a vague and elastic formula, without limiting the subject, between Japan and Germany. It was through submitting a draft of this telegraphic instruction that the Foreign Minister first revealed to Premier Hirota his intention to bring about a rapprochement between Japan and Germany. And, so far as I know, such rapprochement had never been considered during the period when Mr. Hirota was Foreign Minister in the preceding Cabinet or when he temporarily held the additional office of Foreign Minister in his own Cabinet prior to the appointment of Mr. Arita.

Mr. Yoshida, newly appointed Ambassador to Britain, also had a talk with the Foreign Minister early in May, just before he left Tokyo. The Foreign Minister asked him, on that occasion, to strive for the political rapprochement of the same nature between Japan and Britain.

(4) Telegraphic reports were received from Ambassador Mushakoji at Berlin considerably frequently, in connection with the instructions of the beginning of May, informing the Foreign Minister that time seemed to be ripe within Germany for the rapprochement with Japan. The negotiations made a rapid progress, and early in July the Ambassador reported by wire that a draft of the Japanese-German Anti-Comintern Pact was submitted to him by the German Government. The draft had a preamble appearing unnecessarily hostile against the Soviet Union. The annexed agreement, which was later made secret agreement in accordance with the wishes of the Japanese Government, was not to be kept secret in the first proposal. It may be said in this connection that the above-mentioned telegraphic reports of Ambassador Mushakoji were found, on examination, to have been lost in the fire, the originals as well as the copies.

The Foreign Office gave a careful consideration to the German proposal from the following two viewpoints. The preamble appearing unnecessarily hostile against the Soviet Union was amended, together with two or three other wordings which required modification.

(1) Whereas the Soviet-German relations were comparatively simple, the Soviet-Japanese relations were complicated and delicate, with their questions of boundary lines and of treaties for fishing rights and other concessions. Precautions were necessary, therefore, not to stimulate the Soviet Union unduly, so that the coalition between Japan and Germany might not provoke hostilities between Japan and the Soviet Union.

(2) It was also necessary not to cause undue uneasiness to the Powers, especially to Britain, through the coalition between Japan and Germany.

In the meantime, a conference was held in this connection among the authorities of the Foreign Office, the War Office and the Navy Ministry, and we found that there was a strong objection within the Army against the rapprochement between Japan and Britain. The Foreign Office maintained that it was not advisable to conclude a political agreement of this kind exclusively with Germany, and that similar agreements should be concluded also with other Powers, especially with Britain. It was also added that the Foreign Office had no objection to proceeding with the negotiation with Germany first, which had already made a considerable progress, if there were difficulties in concluding agreements with Britain at the same time with Germany. This conference of the competent authorities of the three ministries, however, did not reach a perfect accord.

Such being the situation, a conference was held on July 24, at the official residence of the Foreign Minister, between the responsible heads of the Foreign Office and the War Office. Foreign Minister Arita, myself and Director Togo of the European-Asiatic Bureau attended the conference on behalf of the Foreign Office, while War Minister Terauchi, Vice-Minister Umezu and Director Machijiri of the Bureau of Military Affairs came from the War Office. The above-mentioned opinion of the Foreign Office was submitted to this conference in writing, and careful consideration was given to it. This document had been drawn up by Director Togo in accordance with the orders of the Foreign Minister. It is reported, upon examination, that a copy of this document is still preserved in the files of the Foreign Office.

The military authorities raised a strong objection to the rapprochement between Japan and Britain at first, but the Foreign Office maintained that, so long as the Army did not consent to the rapprochement between Japan and Britain, the Foreign Office would not proceed with the negotiation with Germany. At last the Army yielded, and Foreign Minister Arita, together with War Minister Terauchi, signed the document in token of their agreement.

(5) The Anti-Comintern Pact was concluded, through such process, on November 25, 1936. Some people misunderstood this Pact to be of aggressive nature, because of the secret agreement annexed to it. But it was by no means of such nature, as the contents of the secret agreement prove it. The Pact in question was originally proposed by the German Government, and when it was first submitted to the Japanese Government, the annexed agreement was not to be kept in secret. It was made a secret agreement only in accordance with the desire of the Japanese Government which feared to stimulate the Soviet Union unduly thereby.

In the opinion of the Foreign Office, it was a matter of common knowledge to the majority of the nations of the world that the activity of the Communist International was in reality backed by the Soviet Government. There could be, of course, various ways of backing its activity, but it was altogether possible that the support might be lent by armed force. And it was especially so in the Far East where the activity of the Chinese Communist Force was virulent. It was indeed such fear which drove the Japanese Government to conclude the annexed agreement in question.

(6) As regards the rapprochement between Japan and Britain, Ambassador Yoshida, on arriving in Britain in June, 1936, set about sounding the intentions in this connection of those people representing various spheres of activity there. His telegraphic reports not a little encouraged the Foreign Office, though his efforts did not go beyond the stage of sounding yet. Meanwhile, the Kaelung incident occurred in October, and, hampered by this incident, the situation had not made enough development to start a concrete negotiation with the British Government upon this problem, when the conclusion of the Japanese-German Anti-Comintern Pact was officially announced in November. This Pact was very unpopular with the British general

public. To tell the truth, the Foreign Office had expected that West-European Powers and the United States, which were exercising caution against the activity of the Communist International, would welcome the conclusion of the said Pact, and that a favourable effect would be brought upon the desired rapprochement between Japan and Britain. For, the actions taken at the Seventh General Meeting of the Communist International held at Moscow in July and August of 1935 had aroused caution on the part of all the non-communistic powers of the world, and protests had been lodged with the Soviet Government by the Governments of Britain, the United States and other countries. The United States Government had made the strongest protest on the ground that the said actions taken by the Communist International imply the violation of the pledge which the Soviet Government had given not to interfere in the internal affairs of the United States. It was accordingly the intention of the Foreign Office to start negotiations for the rapprochement with the British Government as soon as the Japanese-German Anti-Comintern Pact be concluded. This intention of the Japanese Government had already been conveyed to the German Government while the negotiation was progressing at Berlin, and the latter had given its consent to the intention. Ambassador-at-Large Ribbentrop, who was expected to start for his new post in London as German Ambassador upon the completion of his work with the Anti-Comintern Pact, emphatically expressed his desire to take the initiative in this negotiation as soon as he arrived at the capital of Britain. The Japanese Government agreed to his desire. Though the Japanese-German Anti-Comintern Pact was unpopular as stated above, yet our Foreign Office expected that this misunderstanding might surely be removed through Ribbentrop's efforts. Nevertheless, his activity in Britain aggravated the unpopularity of the said Pact all the more contrary to our expectation, and the Foreign Office had to withhold for a while the effort at the rapprochement between Japan and Britain.

The Hirota Cabinet resigned en masse in February, 1937, but I remained in the office of Vice-Minister for Foreign Affairs. In June of the same year, the Konoye Cabinet was formed, and Mr. Hirota returned to the Foreign Office as Minister again. I was Vice-Minister for Foreign Affairs under him. He had not lost his zeal for the rapprochement with Britain, the effort at which had once been withheld by the Japanese Government. I will refer to this, later, as I proceed to the explanation of the circumstances of the negotiations with the Italian Government for a Japanese-Italian Anti-Comintern Pact. It may be said in passing that I examined the files of the Foreign Office for the telegraphic reports of Ambassador Yoshida which are referred to in the present statement to find that they had been lost in the fire, the originals as well as the copies. But a confidential document of the Foreign Office, "Business Report for the Year 1936 (Book II, Chapter 6: The Efforts at the Rapprochement between Japan and Britain)" submitted by Director Togo of the European-Asiatic Bureau on December 1, 1936, describing the general progress of the negotiations for the rapprochement between Japan and Britain proceeded by the Japanese Government and Ambassador Yoshida at London escaped the fire, and is still preserved there.

(7) We had already conveyed to all our important Ambassadors and Ministers abroad the Foreign Office's policy to conclude political agreements, not too much restrictive in nature, with as many countries as possible. In accordance with this policy, Charge d'Affairs Yamaguchi of our Legation at Hague wanted to set about negotiations with the Netherlands Government in the autumn of 1936, and asked for instructions of the Foreign Office, which, in reply, wired its compliance to him. He met the competent Netherlands authorities several times during the period from the middle of October to the end of the same month. On these occasions, he proposed, in conformity with the instructions of the Japanese Government, to conclude an agreement between the Governments of Japan and Netherlands with a view to exchanging information

concerning the suppression of the activity of the Communist International chiefly in the Netherlands East Indies, and also to have the home land of the Netherlands included within the scope of the said agreement, if the circumstances admitted. It was really expected, as a result of the negotiations at Hague, that such agreement would be concluded somehow or other. But, the official announcement of the conclusion of the Japanese-German Anti-Comintern Pact suddenly cooled down the zeal of the Netherlands Government, and brought the negotiations to a standstill.

The telegrams referred to here were found, upon investigation, to have been lost in the fire; the originals as well as the copies do not now exist in the files of the Foreign Office. But a confidential document of the Foreign Office, "Business Report for the Year 1936 (Book III, Chapter 1, Section iv: The Preliminary Conversations for the Japanese-Dutch Anti-Comintern Pact)", which is still existing, has the description of the general progress of the preliminary conversations for a Japanese-Dutch Anti-Comintern Pact held between Charge d'Affaires Yamaguchi and the competent Netherlands authorities.

(8) In November, 1936, immediately after the conclusion of the Japanese-German Anti-Comintern Pact, the Italian Government desired to conclude a similar agreement between the Governments of Japan and Italy, and Foreign Minister Ciano approached our Ambassador Sugimura several times with the proposal.

The Hirota Cabinet, however, took a very prudent attitude in this connection, in consideration of the unpopularity with the West-European nations of the Japanese-German Anti-Comintern Pact. The Government considered that to conclude a similar pact with the Italian Government immediately after the signing of the Japanese-German Pact would stimulate Britain all the more, and feared that it might render the question of the rapprochement between Japan and Britain quite difficult. But, on the other hand, it was by no means desirable to provoke antipathy of the Italian Government for that, and also it had to be taken into consideration that the Japanese public opinion considerably sympathetic for Ethiopia had rendered the relations between Japan and Italy rather unsmooth. Such being the circumstances, the Japanese Government took a rather evasive attitude in connection with the proposal of the Italian Government. We indeed felt sorry for Ambassador Sugimura who was exerting all his efforts in improving the relations between Japan and Italy, but it could not be helped. It was with the intention to alleviate the difficulty which Ambassador Sugimura was facing in Italy then that the Governments of Japan and Italy announced almost simultaneously that Japan was to close its Legation in Ethiopia and establish a consulate in its stead, while Italy was to open a consulate at Mukden in Manchoukuo. This step taken by the Japanese Government amounted to de facto recognition of the annexation of Ethiopia by Italy. In this connection, the Foreign Office deliberated carefully upon the reaction this step might cause on the Anglo-Japanese relations, reaching the conclusion that Japan might safely take the above-mentioned measure. Britain also took a similar measure, as I remember, shortly after that.

In February, 1937, the Hirota Cabinet resigned en masse, and the Hayashi Cabinet succeeded it. But the attitude of the Japanese Government remained unchanged as far as the question of the Japanese-Italian Anti-Comintern Pact was concerned. I was again Vice-Minister for Foreign Affairs in the new Cabinet under Foreign Minister Sato. Meanwhile, the Italian Government continued to approach the Japanese Government with the same proposal, and Ambassador Sugimura was in an awkward position. Toward the end of May, however, he was transferred to Paris, and Mr. Hotta succeeded him in the office of Japanese Ambassador to Italy.

The Hayashi Cabinet was short-lived. In June, the First Konoye Cabinet was formed, in which Mr. Hirota was Foreign Minister. I remained, again, in the office of Vice-Minister for Foreign Affairs under him.

Ambassador Hotta proceeded to Rome at the end of June or at the beginning of July. Immediately before the Ambassador left Tokyo, Foreign Minister Hirota revealed to the Ambassador that he was, then, at pains to realize the rapprochement between Japan and Britain, and requested that the Ambassador should "stamp his feet" as before with Italy. This I was told by Ambassador Hotta in person.

A month had hardly elapsed after the formation of the Konoye Cabinet when the China Affair broke out. On account of this incident, Japan became gradually unpopular with the peoples of the world, especially with those of Britain and the United States. And, accordingly, there was little hope of success of the negotiations for the rapprochement between Japan and Britain, which was already two years old. In the meantime, the Foreign Office could not afford to offend Italy by keeping such an evasive attitude as stated above with respect to the question of the Japanese-Italian Anti-Comintern Pact which had lagged on for about one year.

In Japan, the sense of international isolation, which had haunted the Japanese general public since the outbreak of the Manchurian Affair, was now felt all the more keenly through the unpopularity of the China Affair. Within the Cabinet as well as within the Army, there were some people who maintained to strengthen the relations between Japan and Italy. On the other hand, the Government of Italy also urged Ambassador Hotta to resume the negotiations which had been started between Foreign Minister Ciano and Ambassador Sugiyama. And it was the opinion of the Italian Government at first that the agreement to be concluded between Japan and Italy should be something in the nature of neutrality and consultation treaty. The Japanese Foreign Office again inquired into the repercussion that the conclusion of such agreement might cause upon the relations between Japan and Britain, reaching a conclusion that even the Italian proposal went too far, and that an anti-Comintern pact of the same nature with the Japanese-German Anti-Comintern Pact (exclusive of the Annexed Secret Agreement) should be concluded between Japan and Italy, apart from the Japanese-German Pact. The Cabinet decided upon this policy at the beginning of October. We also sounded the intention of the German Government, and realized that Foreign Minister von Neurath had no objection to that. Thus, the signing of the Pact was arranged between Foreign Minister Ciano and Ambassador Hotta. However, the German Government, mainly at the instance of Ambassador Ribbentrop, suddenly proposed to have Italy participate in the Japanese-German Pact. The Japanese Foreign Office was rather annoyed by the offer of the German Government, fearing that Japan might commit itself more if it yielded to the German proposal. It was also said that Italian Foreign Minister Ciano expressed his dissatisfaction with the German proposal. But, it was decided, upon deliberation among Japan, Germany and Italy, to have Italy participate in the Japanese-German Anti-Comintern Pact as an original signatory in order to save her face, and Italy signed the Pact on December 9 at Rome. This participation of Italy, however, had nothing to do with the Secret Agreement annexed to the said Japanese-German Pact, as the Secret Agreement was not disclosed to the Italian Government.

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(9) Mr. Hirota was not concerned in the conclusion of the Japanese-German-Italian Tripartite Pact. It is true that we sometimes heard of certain advocates of the Japanese military during the period from the last days of the Okada Cabinet to the beginning of the Hirota Cabinet, prior to the commencement of the negotiations for the Japanese-German Anti-Comintern Pact. But such were, in fact, officers of comparatively junior classes. The executives of the Japanese Army were said to be opposed to them.

The idea of such Japanese-German military alliance was not in the least revealed to the Foreign Office by the Army while Mr. Hirota was in the office of Foreign Minister in the Konoye Cabinet. Such was indeed out of question for the executive of the Foreign Office.

(10) The committee provided in the protocol attached to the Japanese-German Anti-Comintern Pact of November 25, 1936, was not established while I remained in the office of Vice-Minister for Foreign Affairs. It has never been established, as I understand, even after my transfer from that office on October 15, 1938.

On this 20th day of August, 1947, at Tokyo.

(Signed) HORINOUCI, Kensuke (Seal)

Sworn to and subscribed before me on the above-mentioned date and place.

(Signed) MORISHIMA, Goro (Seal)

Witness

O A T H

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

(Signed) HORINOUCI, Kensuke (Seal)