

Exhibit 2689

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INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE UNITED STATES OF AMERICA, et al))	A F F I D A V I T
-vs-)	
ARAKI Sadao, et al)	of
Defendants)	FUJITA, Masamichi

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

1. My name is Fujita, Masamichi. I formerly was a captain in the Japanese Navy and served in the Naval Affairs Bureau of the Navy Ministry from June 1942 until the termination of the war. My duties placed me in charge of affairs dealing with the organization and movements of shipping. I was one of the officers in charge of administering matters dealing with shipping of the Soviet Union.

2. The Chief of the Bureau during the war told me, regarding my duties, that "the only major power with which Japan maintains normal international relations today is the Soviet Union. Therefore we must devote every effort toward maintaining friendly relations with that country. All officers concerned should devote the greatest attention to this and exert every effort to avoid any friction that might arise as a result of military mistakes. This is absolutely necessary because to do otherwise may force our diplomats to face an awkward situation."

I, and several others who were in charge of shipping matters relative to the Soviet Union, scrupulously abided by our instructions and adopted extreme precautions to the end of not violating any treaties, laws or regulations which might in any way provoke Soviet wrath. Whenever any incident or happening demanding Soviet-Japanese negotiations arose, we compiled data on the basis of rendering the Soviet Union every possible concession. Then we forwarded this report to the authorities of the Foreign Ministry. Actually we made concessions which were almost humiliating, and many of the officers considered them to be abandonment of our lawful rights as a belligerent power at that time. For example, I point to the unconditional release of Soviet ships which changed their nationality.

3. After the outbreak of the Pacific War, the Japanese Navy enforced such measures as the establishment of sea-defense areas, designation of navigation routes and warnings against entry into specified sea areas at the Straits of Soya and a few other places. While this naturally restricted navigation, the procedure adopted was in accordance with Article 3 of the agreement on the laying of automatic release submarine mines (hereto attached and marked Exhibit "A"). It also conformed to existing international usage concerning the notification of establishment of sea-defense areas and specification of navigation routes.

The Ministry's desire and sole objective relative to the Soviet Union was to maintain friendly relations, and this motive tempered to a large extent the restrictions on liberty of navigation. We did not consider the measures adopted as coercive in any respect.

4. Strict orders were issued prohibiting the inspection, apprehension or internment of ships unless conducted in conformity with existing international usage. According to reports which I received from the sea-areas concerned, there was not a single case of a violation of international regulations reported. All ships entering the prohibited sea-areas were intercepted and searched, and the officers in charge were questioned. This war-time procedure was absolutely necessary for various operational reasons such as the precautionary matter of preventing the confusion of such ships with enemy craft, thus removing also the cause for any resulting disasters and disputes. The inspections conducted of the Sergey Kirov and the Angarstroy fit into this category. The reason for this bringing them to quiet waters was only to avert possible danger.

5. Both entrances to the Tsugaru Straits are 10 nautical miles wide (9.5 nautical miles at the narrowest point). This Strait has long since been recognized officially as under our possession. Therefore, it was within our legal and sovereign rights to deny navigation of such waters. I wish to emphasize that although the Tsugaru Straits join two open seas, there are other passages connecting the two seas. Moreover, every possible convenience in the existing circumstances was provided by notifying just what other sea-lanes were considered safe.

6. It is true that navigation waterways for Soviet shipping were restricted to two sea-lanes. However, when the Soviet Union demanded passage through Sōya Straits we never refused their request. There was a reason for restricting Soviet shipping to two water-lanes. At that time we were facing the grave danger of United States submarines passing through the Straits and thereby reaching the Japan Sea; as a protective counter-measure, considered absolutely necessary from the military point of view to preserve this safety in navigation, we took this step. At the same time the measure adopted afforded a protective service for Soviet ships in securing their safe passage.

7. On inspecting the Angarstroy we found that the ship's papers were missing -- it was reported that the ship's papers had been left at the port of embarkation -- and that it also did not possess necessary papers on radio conditions, etc. Under international regulations we could have seized the ship on that count alone, but the ship was released because of our instructions not to provoke in any way an incident which might mar friendly relations with the Soviet Union.

After this ship had been released it was sunk by a submarine. The facts were as follows: Around 10:00 P.M. on 1 May 1942, at a point 36 nautical miles west of the Danjo Archipelagoes, 32 degrees 0 minutes North Latitude, 127 degrees 41 minutes East Longitude, the ship met its ill-fated end. There were absolutely no Japanese submarines operating in this area, not to mention any being stationed there at that time (report hereto attached and marked Exhibit "B"). Moreover, on the very same day, a Japanese ship -- the Calcutta Maru -- was sunk in the same area by a submarine attack. Although the Soviet Union entered a protest alleging that the sinking was by Japanese submarine, we feel that the sinking of the Japanese ship at the same time and at the same place may assist in arriving at a conclusion as to which country's submarine was in action.

The Japanese ship Kayo Maru rescued the survivors of the Angarstroy's crew, after operating for an hour in waters considered dangerous because of enemy activities. The crew were afforded full protection and this dangerous rescue undertaking was further in keeping with our instructions to maintain friendly relations with the Soviet Union. We actually expected an expression of gratitude from the Soviet Union for this rescue but we were met with a protest. I well remember the "voices of indignation" raised because of the injustice to us; it was hardly conceivable that such a gross misinterpretation of the actual facts could have been made.

During the change of nationality and the problem of interning Soviet Ships, I recall that in the middle of 1943 the Kamenetz Potolsk and the Ingul were involved. These were Soviet ships which were interned because there was reasonable ground for suspicion concerning their nationality, they falling clearly within the provisions of the London Declaration on Naval Warfare (vide Clauses 55 and 56, hereto attached and marked Exhibit "C"). The ships were detained for further investigation, but as the Soviet Union did not present appropriate proof or evidence of their nationality the prolonged internment was unavoidable.

The lack and disorder of the ship's papers and the falsity and inaccuracy of the Captain's statements were alone sufficient to provoke arrest of the ships. But, in keeping with our policy and in the interests of friendly relations with the Soviet Union, investigations were conducted simply by mere detention.

The results of the investigation often revealed cases of some ships possessing no papers of any kind, nor certificates showing their nationality. There were differences between the ship's papers and the Captain's statements in many instances, and often the papers on all matters were very incomplete and disorderly arranged. Furthermore, most of the entries in the logs were made after the outbreak of the Pacific War, and all ships were under suspicion as being those of the United States because there was a natural tendency for American ships to pose as Soviet ships in order to avoid capture. This alone was sufficient ground for detention and complete investigations of all shipping. In spite of the existing conditions as I have described them, it must be emphasized that all ships were released almost unconditionally in furtherance of our policy toward the Soviet Union.

9. I recall the problem involved in the bombing and sinking of the Perekop and Maikop in response to Soviet protests against Japanese aircraft. Regarding these cases we made a detailed and thorough inquiry into the matter. We received reports that there were no Japanese planes corresponding to the Soviet allegations, and that there were no Japanese planes operating in that area at that time. Military men recognize the possibility of frequent mistakes of identification of aircraft, and since there was no evidence an accurate conclusion could not be reached. The Soviet Union unfortunately had no photographs or other evidence of a precise nature which would assist us in determining the matter fully.

10. Regarding the disaster of the Mariupol, I recall that the vicinity where the incident took place was already recognized as a battle area. It was moreover a strategically important point. It was impossible to tolerate the stopping of a foreign ship in our territorial waters for security reasons. However, from the standpoint of maintaining friendly relations with the Soviet Union, the military disadvantages were accepted and we agreed to the Soviet proposal for relief operations by Soviet ships.

Owing to inefficient communication between Soviet authorities in the locality concerned, as well as poor control in the system of command, considerable time elapsed before the rescue project actually began; the high waves and snow-storms further postponed the beginning of the operations. The Mariupol was firmly grounded, and furthermore her engine-room had exploded and the problem of refloating her was most difficult. This accounts for the project's ending in failure. The instructions which I and my fellow-officers received time and time again was to extend full service in rescue operations without respect to nationality or treaty provisions. We of course, followed the provisions set forth in Naval Personnel Service Regulations, Clause 109, (hereto attached and marked Exhibit "D") and Explanations on Naval Overseas Regulations, Page 254 (hereto attached and marked Exhibit "D-1"). We offered the greatest possible aid in the existing circumstances, together with permission for Soviet ships to engage in rescue operations, which included long stoppage and so forth.

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Exhibit A

Extracts from the Convention Relative to
the Laying of Automatic Submarine Contact Mines

Miscellaneous Regulations of
the Navy.
Vol. IV, Page 851

Article 3

When anchored automatic contact mines are employed, every possible precaution must be taken for the safety of peaceful navigation.

The belligerents undertake to provide, so far as possible, for these mines becoming harmless after a limited time has elapsed, and, where the mines cease to be under observation, to notify the danger zones as soon as military exigencies permit, by a notice to mariners, which must also be communicated to the Governments through diplomatic channels.

Exhibit B

Certificate Concerning the Source and Compilation
of Document.

I, DOHI Kazuo, Chief of War Records Section, Institute of War Records and Technical Intelligence, Second Demobilization Bureau, Demobilization Board, hereby certify that the attached document of four sheets of paper written in Japanese under the title, "Summary of the Movements and Locations of Japanese Submarine Forces around April and May 1942" has been investigated and compiled by the Imperial Japanese Government (War Records Section, Institute of War Records and Technical Intelligence, Second Demobilization Bureau, Demobilization Board).

At Tokyo, 22 April 1947

DOHI Kazuo (seal)

I, witness, hereby certify that the above signature and seal have been made in my presence.

At Tokyo, 22 April 1947

YASUDA Shigeo (Seal)

Summary of the Movements and Locations of Japanese
Submarine Forces around April and May 1942

1. The organization of the submarine forces and locations thereof as of 10 April 1942 are as set forth in the attached table

2. The movements of submarines during the period from 10 April to May, 1942.

a. 1st Submarine Squadron

Each submarine of this squadron was under repairs at Yokosuka, and consequently in inoperative condition. In the middle part of May all submarines commenced their movements for the Aleutians Area.

b. 2nd Submarine Squadron.

Submarine I-1 was under overall repairs at Yokosuka till early June. The other submarines operated in the Indian Ocean during April, and left Singapore for Yokosuka late in May.

c. 3rd Submarine Squadron.

As the attack of a United States task force was anticipated from the sea area to the east of Tokyo Bay, all the submarines of this squadron, leaving Kure on 15 April, advanced to the above-mentioned sea area in search of the task force. From the end of the same month they moved to Kwajalein, except Submarines I-8, I-68 and I-72.

At the end of the month Submarine I-8 returned to Yokosuka because of certain troubles, and Submarine I-68 to Kure owing to engine trouble. Submarine I-72 also returned to Yokosuka at the beginning of May owing to the breakdown of her engine.

d. 8th Submarine Squadron.

Submarine I-30 left Kure directly for Penang on 11 April, and was engaged in operations in the Indian Ocean after the latter part of April. Submarine I-10 and the 1st Submarine Division left Kure on 15 April directly for Penang, and were engaged in operations in the Indian Ocean after the latter part of April.

The 3rd and 14th Submarine Divisions (exclusive of Submarine I-30), leaving Kure on 15 April, advanced to the sea area to the east of Tokyo Bay and were engaged in the search for the United States task force. From the end of the same month they were engaged in operations in the Coral Sea Area.

e. 13th Submarine Division.

Submarines I-121 and I-122 were under repairs at Kure, and Submarine I-123 at Yokosuka, till the early part of May, and they were consequently all in inoperative condition.

f. 5th Submarine Squadron.

Submarines I-56, I-57 and I-58 were under repairs at Kure and the other submarines at Sasebo, and they were consequently all in inoperative condition.

g. 7th Submarine Squadron.

The 26th and 33rd Submarine Divisions were under repairs till the end of May at Sasebo and Maizuru respectively, and they were consequently all in inoperative condition.

The 21st Submarine Division was engaged in operations in Rabaul Area after the middle part of April.

h. Submarines belonging to the Kure Naval Station Forces.

The 18th and 6th Submarine Divisions were generally engaged in the educational operations of the Naval Submarine School, and the other submarines were under repair. Accordingly none of them made movements anywhere beyond the area of the Inland Sea.

Exhibit B (Attached Table)

Classification	Name of Submarine and Submarine Division	Movement or Location	
6 F	1 Ss. I-9 2 Sg(I-15, I-17, I-19) 4 Sg(I-25, I-26)	At Yokosuka, under repair.	
	2 Ss. I-7 7 Sg(I-1, I-2, I-3) 8 Sg(I-4, I-5, I-6)	I-1, at Yokosuka under repair. Others, engaged in operations in Indian Ocean.	
	3 Ss. I-8 11 Sg(I-74, I-75) 12 Sg(I-68, I-69, I-71, I-72)	At Kure under repair.	
	8 Ss. I-10 1 Sg(I-16, I-18, I-20) 3 Sg(I-21, I-22, I-24) 14 Sg(I-27, I-28, I-29, I-30)	"	
		13 Sg(I-121, I-122, I-123)	I-123, at Yokosuka under repair. Others at Kure under repair.
8	5 Ss. 19 Sg(I-56, I-57, I-58, I-59)	I-59 at Sasebo and others at Kure under repair.	
		30 Sg(I-62, I-64, I-65, I-66)	I-64 returned to Sasebo from Indian Ocean on 12 April. Others at Sasebo under repair.
4F	7 Ss. 26 Sg(Ro-61, Ro-62, Ro-65, Ro-67)	At Sasebo under repair.	
		33 Sg(Ro-63, Ro-64, Ro-68)	At Maizuru under repair.
		21 Sg(Ro-33, Ro-34)	At Truk under repair.
Kure Naval Station	18 Sg(I-53, I-54, I-55) 6 Sg(Ro-57, Ro-58, Ro-59) I-52. Ro-31	At Kure	

(Note): The abbreviations used in the above table are as follows:

- GF.....Combined Fleet
- 4F.....4th Fleet
- 6F.....6th Fleet
- 1Ss.....1st Submarine Squadron
- 13 Sg.....13th Submarine Division
- I-9.....Submarine I-9
- Ro-61.....Submarine Ro-61

Exhibit C

Extracts from the DECLARATION OF LONDON
Concerning the Laws of Naval Warfare.

Elements of International Law
in War-Time, Page 536.

Article 55. - The transfer of an enemy vessel to a neutral flag, effected before the outbreak of hostilities, is valid, unless it is proved that such transfer was made in order to evade the consequences to which an enemy vessel, as such, is exposed. There is, however, a presumption, if the bill of sale is not on board a vessel which has lost her belligerent nationality less than sixty days before the outbreak of hostilities, that the transfer is void. This presumption may be rebutted.

Where the transfer was effected more than thirty days before the outbreak of hostilities, there is an absolute presumption that it is valid if it is unconditional, complete, and in conformity with the laws of the countries concerned, and if its effect is such that neither the control of, nor the profits arising from the employment of the vessel remain in the same hands as before the transfer. If, however, the vessel lost her belligerent nationality less than sixty days before the outbreak of hostilities and if the bill of sale is not on board, the capture of the vessel gives no right to damages.

Article 56. - The transfer of an enemy vessel to a neutral flag, effected after the outbreak of hostilities, is void unless it is proved that such transfer was not made in order to evade the consequences to which an enemy vessel, as such, is exposed.

There, however, is an absolute presumption that a transfer is void--

- (1) If the transfer has been made during a voyage or in a blockaded port.
- (2) If a right to repurchase or recover the vessel is reserved to the vendor.
- (3) If the requirements of the municipal law governing the right to fly the flag under which the vessel is sailing, have not been fulfilled.

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Exhibit D

Excerpt from:
Naval Service Ships Personnel Service Regulations.
Naval Routine Regulation. Volume One (Page 493)

Article 109

If the captain of a naval service ship observes a grounding, collision or fire, or facts showing a ship to be in distress, he must extend adequate relief if it does not hinder his duties. If, owing to weather conditions or the demands of duty, he is unable to afford relief, he must rescue human life if possible and deliver those rescued to any convenient harbor, and reporting the matter to the Navy Minister and also to the commanding officer of the unit to which he is attached.

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Exhibit D-1

Excerpt from;
Explanation of Provisions for Naval Service Ships Operating Abroad. (Page 254)

(4) SUBJECT: On Extending Relief to Ships in Distress.

If a naval service ship is in distress at sea and seeks refuge into a foreign harbor, or is grounded or shipwrecked, it is customary for the nation concerned not only to afford relief and aid but to provide special facilities in the way of customs duty and other such matters, regardless of international treaties. (Most of the treaties of commerce and navigation include provisions concerning the above.)

In Article 11 of the Treaty on codification of regulations (concluded in September 1910) dealing with "rescue and relief of ships in distress" it is stated, "If human life is in danger at sea, the captain is required to rescue that person, should that person be an enemy national, provided it will not subject ship, crew or passengers of his own ship to grave danger." (This article is not applicable to naval service ships.)

Also, in Article 11 of the Seamen's Law, a provision is set forth on the captain's duty to rescue lives at sea. (See "Sea Disaster Relief Law" for reference)

It can be argued whether there is an obligation, from the viewpoint of international law, to rescue and extend relief when such obligation does not exist in treaties. However, it may be said that affording relief to ships in distress, so far as circumstances permit is commonly observed in general.

Def. Doc. No. 1593

OATH

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

Fujita Masamichi (seal)

On this 1st day of May 1947

At Tokyo

DEPONENT Fujita Masamichi (seal)

I, Yasuda Shigeo, hereby certify that the above statement was sworn to by the deponent, who affixed his signature and seal thereto in the presence of this witness.

On the same date

At Tokyo

Witness: Yasuda Shigeo (Seal)

Translation Certificate

I, Akatani Kan, hereby certify that I am conversant with the English and Japanese languages, and that the foregoing is, to the best of my knowledge and belief, a correct translation of the original document.

Akatani Kan

Tokyo
20 May 1947

Def Doc No. 1593-A

CERTIFICATE OF SOURCE AND AUTHENTICITY

I, IMAMURA, Ryonosuke, who occupy the post of The Chief of The Archives of the 2nd Demobilization section of the Demobilization Bureau, hereby certify that the document hereto attached written in Japanese, consisting of 1 page and entitled "Extract from the Convention Relative to the Laying of Automatic Submarine Contact Mines" is an exact and authorized excerpt from an official document in the custody of Japanese Government (the 2nd Demobilization Section).

certified at Tokyo,

on this 30th day of April, 1947

IMAMURA, Ryonosuke (seal)

I hereby certify that the above signature and seal were affixed hereto in the presence of the Witness.

at the same place,

on this same date

Witness:

YASUDA, Shigeo (seal)

//

Def Doc No. 1593 - C

CERTIFICATE OF SOURCE AND AUTHENTICITY

I, IMAMURA, Ryonosuke, who occupy the post of The Chief of The Archives of The 2nd Demobilization Section of The Demobilization Bureau, hereby certify that the document hereto attached, written in Japanese, consisting of 2 pages and entitled "Extracts from the Declaration of London Concerning the Laws of Naval Warfare" is an exact and authorized excerpt from an official document in the custody of Japanese Government (The 2nd Demobilization Section of Demobilization Bureau).

certified at Tokyo,

on this 20th day of April, 1947

IMAMURA, Ryonosuke (seal)

I hereby certify that the above signature and seal were affixed hereto in the presence of the Witness.

at the same place,

on this same date

Witness:

YASUDA, Shigeo (seal)

Def Doc No. 1593 - D

CERTIFICATE OF SOURCE AND AUTHENTICITY

I, LIAMURA, Ryonosuke, who occupy the post of The Chief of The Archives of the 2nd Demobilization Section of the Demobilization Bureau, hereby certify that the document hereto attached, written in Japanese, consisting of 1 page and entitled "Excerpt from Naval Service Ship Personnel Service Regulation. Volume One (Page 493)" is an exact and authorized excerpt from an official document in the custody of Japanese Government (the 2nd Demobilization Section).

certified at Tokyo,

on this 30th day of April, 1947

LIAMURA, Ryonosuke (seal)

I hereby certify that the above signature and seal were affixed hereto in the presence of the witness.

at the same place,

on this same date

Witness:

YASUDA, Shigeo (seal)

Def Doc No. 1593-D-1

CERTIFICATE OF SOURCE AND AUTHENTICITY

I, IMAJURA, Ryonosuke, who occupy the post of The Chief
of The Archives of the 2nd Demobilization ^{(Section} Of the Demobilization
Bureau, hereby certify that the document hereto attached, written
in Japanese, consisting of 1 page and entitled "Excerpt from
'Explanation of Provisions for Naval Service Ships Operating
Abroad (Page 254)'" is an exact and authorized excerpt from an
official document in the custody of Japanese Government (The 2nd
Demobilization Section of Demobilization Bureau).

certified at Tokyo,
on this 30th day of April, 1947.

IMAJURA, Ryonosuke (seal)

I hereby certify that the above signature and seal were
affixed hereto in the presence of the Witness.

at the same place,
on this same date

Witness:

YASUDA, Shigeo (seal)