

Approved official communications to  
The Secretary of State  
Washington, D.C.

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War Dept.  
Mar 10 1945

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Dept. of State letter, Aug. 10, 1973  
DATE: 1/25/01 BY: 2000/01/23

DEPARTMENT OF STATE  
WASHINGTON

March 9, 1945

~~SECRET~~

AM 000.51 War Crimes

Dear Jack:

We are sending the follow-up memorandum on War Crimes transmitted with your letter of March 6 to the President. In as much as Mr. Bohlen tells me that there was no discussion on War Crimes at Yalta, I have therefore modified your draft accordingly. A copy is enclosed.

I agree with you that a response to this memorandum would greatly facilitate our task.

We received on March 7 a note from the British Embassy proposing a meeting in London on March 15, 1945 to discuss War Crimes and inviting Mr. Backworth, Legal Adviser to the Department of State, Brigadier General John Weir, and others who may be designated, to attend. A copy is enclosed.

Sincerely yours,

/s/ James Clement Dunn  
James Clement Dunn  
Assistant Secretary

9 Mar 45

Enclosures:

Copy of Memorandum on War Crimes;  
Copy of Note from British Embassy.



The Honorable  
John J. McCloy,  
Assistant Secretary of War.

A TRUE COPY

STANDARD FORM NO. 64  
EO 1.287, Sec 20 and 208 or (B)  
Dept. of State letter, Aug 10, 1972  
By                      NAME Date           

~~SECRET~~

March 8, 1945.

MEMORANDUM FOR THE PRESIDENT

Subject: War Crimes

Under date of 22 January 1945 the Secretary of State, the Secretary of War, and the Attorney General submitted to you (just prior to your departure for Yalta, through Judge Rosenman), the memorandum on War Crimes, a copy of which (without certain bulky exhibits submitted with the original memorandum) is attached.

It is understood that policy on War Crimes was not discussed at Yalta.

It would greatly facilitate planning by the State Department and the War Department if they could be informed

a. whether the conclusions and recommendations of the memorandum have your approval;

b. whether the State and War Departments are at liberty to proceed through the European Advisory Commission (or diplomatic channels) and the appropriate military authorities, respectively, to carry out these recommendations.

I am also attaching a summary of a note from the British Ambassador dated March 6, 1945 in which the British Government invite to come to London, on or about March 15th, Mr. Mackworth of the State Department, General W. G. Air of the War Department, and such other officials as we may wish to designate for a general discussion of war crimes to include the trials of war criminals, the methods of holding such trials, and the procedure to be adopted for dealing with lists of war criminals.

We feel that it would be helpful in clarifying the atmosphere in regard to this whole subject if some

American

American officials competent in the subject could proceed to London as the British Government suggests. General Weir, of the War Department, is thoroughly familiar with the subject as far as the military aspects are concerned, and Mr. Hackworth has been working on it for the State Department. It might be, however, that you would wish to have Judge Rosenman, who is now in London and also thoroughly familiar with the United States' views in the matter, discuss the subject with the British authorities while he is there. You will recall further that you have suggested that Mr. Joseph E. Davis proceed to London for the purpose of discussing this general subject. I would be grateful to have your views as to how we should reply to the British invitation to have American officials discuss the matter with the British Government in London.

JOSEPH C. GRW

Acting Secretary of State

Attachments:

1. Memorandum on War Crimes.
2. Memorandum containing summary of note from British Ambassador dated March 6, 1946.

SECRET

His Majesty's Ambassador presents his compliments to the Secretary of State and has the honour to refer to the Embassy's Aide-Memoire dated October 30, 1944, which was left with the Legal Adviser to the Department of State on that date, concerning various proposals made by the United Nations War Crimes Commission in London, and to the Aide-Memoire dated December 27, 1944, concerning a draft directive regarding the functions of theatre commanders in relation to war criminals.

2. Since the delivery to the Department of State of above mentioned Aide-Memoires, officials of the Embassy have had the advantage of informal discussions on the subject of war crimes and war criminals with the Legal Adviser of the Department of State and with other officials of the United States Government.

3. His Majesty's Government in the United Kingdom believe that the time has come when a general discussion of the subject between representatives of the United States and of the United Kingdom would be mutually advantageous. Lord Halifax, therefore, has pleasure on behalf of His Majesty's Government, in inviting to London Mr. Green H. Hackworth, Legal Adviser to the Department of State, Brigadier General John Weir of the United States War Department, and such other officials as they or Mr. Grew may designate, for the purpose of holding such discussions. His Majesty's Government hope that the

ASSENT TO PROCEEDINGS  
BY MR. HALL, MARSH Dec 1947

meeting may, if possible, take place in London on or about March 15th next.

4. His Majesty's Government consider that the proposed discussions could profitably include such matters as the trials of war criminals, the suggested International Criminal Court, the proposed mixed military tribunals, and the procedure to be adopted for dealing with lists of war criminals produced by the Commission.

5. As regards other matters concerning the pre-surrender period in Western Europe, these appear for the most part to be covered in practice by action taken by the Supreme Headquarters of the Allied Expeditionary Forces and by Allied Force Headquarters, by the draft directive which it is hoped the Combined Chiefs of Staff will issue very shortly, and by the existing liaison arrangements between S.H.A.E.F. and A.F.H.Q. and between other competent Allied authorities. There seem few other questions relating to this period which require discussions between the United States and the United Kingdom, but no doubt such questions as the establishment of a channel for exchange, between the United Kingdom and the United States, of information on war crimes and war criminals could also be considered advantageously at such a meeting.

6. There is, however, one outstanding question, namely, whether the Governments of the United States and of the United Kingdom should try to establish some form of liaison with the Government of the Soviet Union in the pre-surrender period for:

- (a) the mutual collection and exchange of information about war crimes; and
- (b) the apprehension, and possibly the exchange, of war

criminals whose custody is desired by either side.

A case in point under (a) is the over-running by Soviet forces of Stalag Luft III at Sagan where fifty British and Allied air force officers were murdered by the German in March of 1944. The principal difficulty in connection with such arrangements is the manner in which the other Allies would be brought into any such liaison arrangements. The Government of the Soviet Union might feel disinclined to participate in a wide arrangement embracing a number of the Allies, but, on the other hand, if the United Kingdom and United States were to make arrangements with the Government of the Soviet Union on their own account alone, the other Allies who, as stated below, have suffered very severely in the matter of war crimes, might be offended. This matter is being urgently considered in the United Kingdom and Lord Halifax hopes to send to Mr. Grew shortly some proposals in this regard. This matter could also be discussed further by the representatives of the United States and the United Kingdom at the proposed meeting in London.

7. Some thought has been given to the advisability of inviting representatives of the French Provisional Government and the Soviet Government to participate in the proposed discussions in London, but His Majesty's Government see some difficulty in inviting the French Government to participate without giving other Allies an opportunity also to take part. A number of such other Allies have, in the view of His Majesty's Government, suffered in proportion, at least as heavily, if not more heavily, than have the French, from the atrocities committed by war criminals, and it might provoke great resentment

among them if they were excluded, in favour of the French alone, from conversations on proposals emanating from the United Nations War Crimes Commission. His Majesty's Government also feel that at the present stage the Government of the Soviet Union would be unlikely to accept any invitation to take part in talks at a technical level on war criminals and therefore no invitation is, at the present time, being issued to that Government to participate in the discussions. His Majesty's Government are of the opinion that if it is decided to try to establish such liaison and mutual assistance with the Soviet Union, as is mentioned in paragraph 6 above, the matter would best be taken up through ordinary diplomatic channels and that there is no need for special discussion with the Soviet Union about it. Therefore the invitation to the proposed discussions is being limited to the Government of the United States. If it appeared that the Government of the Soviet Union or the French Government could assist at any stage in the discussions, appropriate representatives of such Governments could, of course, be consulted separately.

8. The Government of the Soviet Union have asked that the requirements concerning the handing over of war criminals should be discussed by the European Advisory Commission and His Majesty's Government are preparing a draft directive which it is hoped will shortly be discussed by the Commission. It is understood that United States authorities are also at work on a similar draft directive. The discussions at the European Advisory Commission on these two directives will enable the United States Government, His Majesty's Government,

