The United Nations have on various occasions expressed their abhorrence for the unspeakable crimes and atrocities of which the German leaders and their associates are guilty, and have pledged themselves that those responsible for such crimes and atrocities shall not escape retribution.

The United Kingdom, the United States, and the Soviet Union in the Declaration issued at Moscow November 3, 1943, stated:

1. that those German officers and men who have been responsible for or have taken a consenting part in those atrocities will be sent back to the countries in which their unspeakable deeds were done in order that they may be judged and punished according to the laws of those liberated countries and by the free governments which will be created therein; and

2. that the above declaration was "without prejudice to the case of the major criminals, whose offenses have no particular geographical localisation and who will be punished by the joint declaration of the Governments of the Allies."

The criminality of the German leaders and their associates does not consist solely of individual outrages, but represents the result of a systematic and planned reign of terror within Germany and within the areas occupied by German military forces, in connection with which the crimes and atrocities referred to were committed. These crimes and atrocities were perpetuated pursuant to a premeditated criminal plan.

For the carrying out of the acts of oppression and terrorism which their program involved, the Nazi leaders and their associates created and utilized a numerous organization, chief among which are
the SS, the Gestapo, and the SD.

Having in view the foregoing, and in order to press on with the necessary practical measures to bring to justice the criminals referred to, the Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, and the Provisional Government of the French Republic, acting by their respective duly authorized representatives, have agreed upon the following:

I

The German leaders and their associates, and the organisations employed by them, such as those referred to above, shall be charged with the commission of their atrocity crimes, and also with joint participation in a broad criminal enterprise which included and extended these crimes, or was reasonably calculated or likely to bring them about. The allegation of the criminal enterprise shall be so worded as to permit full proof of the entire Nazi plan from its inception and the means used in its furtherance and execution, including the pre-war atrocities and those committed against their own nationals, neutrals, and civilians, as well as the applying of an illegal war of aggression with ruthless disregard for international law and the rules of war. There will be invoked the rule of liability, common to all penal systems and included in the general doctrines of the laws of war, that those who participate in the formulation and execution of a criminal plan involving multiple crimes are jointly liable for each of the crimes committed and jointly responsible for the acts of each other. In support of this charge there will be admitted in evidence the acts of any of the conspirators done in furtherance of the conspiracy, whether or not these acts were in themselves criminal and subject to separate prosecution as such.

II

The total of the charge described in Article I and the
determination of the guilty parties will be carried out in
two stages:

(a) There will be brought before an international tri-
unal to be created the highest ranking German leaders to a
number fairly representative of the groups and organizations
charged with responsibility in the basic criminal plan. Adjudica-
tion will be sought not only of the guilt of those individuals
physically before the tribunal, but also of the complicity of the
members of the organizations included with the charge. The
tribunal will make findings adjudicating the facts established,
including the nature and purposes of the criminal plan, the
identity of the groups and organizations guilty of complicity
in it, and the acts committed in its execution. The tribunal
will sentence those individual defendants physically before it
who are convicted.

The above, which may take place in one or more trials,
will complete the mission of this international tribunal.

(b) Thereafter, other individuals charged with specific
atrocities and members of the organizations who are charged
with complicity through such membership in the basic criminal plan
but against whom there is not sufficient proof of specific atro-
cities shall, unless held for trial by one of the United
States or sent back for trial under the provisions of the
Moscow Declaration, be brought before competent or other appro-
priate tribunals. The findings of the tribunal in the trial
provided for in paragraph (a) of this Article will be taken to
constitute a general adjudication of the criminal character of
the groups and organizations referred to, binding upon all
the members thereof in their subsequent trials in competent
tribunals or in other tribunals established under this instru-
ment. In these subsequent trials the only necessary proof of
guilt of any particular defendant, as regards the charge of
complacency, will be his membership in one of those organiza-
tions. Proof will also be taken of the nature and extent of
the individual participation.

c) The defendant in each case shall, upon conviction,
suffer death or such other punishment as the tribunal may
direct, depending upon the gravity of the offense and the de-
gree of culpability of the defendant.

III
The tribunal for the trial of the basic crime referred to
in Article II shall be a military tribunal which shall consist
of five to seven members, to be appointed as follows: one each
by the British Commonwealth, the United States, the Soviet Union,
and France, and one to three members to be chosen by agreement
of the four members of the tribunal, first selected as above
provided, from a panel consisting of one person each nominated
by each of the other United Nations who may become parties to
this Instrument.

The members of the tribunal shall be military personnel of
the nations of which they respectively are citizens.

IV
In order to accomplish the swift trial and punishment of
those guilty of war crimes and other atrocities, the tribunal
mentioned in Article II, the national courts of the United
Nations, and the appropriate military and occupation courts,
all shall adopt and apply, to the greatest extent possible,
expeditions, fair, non-technical procedures. Such procedures,
in a manner consistent with the other provisions of this agree-
ment should:

(a) provide each accused with notice of the charges
against him and an opportunity to be heard reasonably on such
charges.

(b) permit the court to omit any evidence which it
considers would have probative value towards confirmation of charges.

(c) Except as the court in its discretion shall deem appropriate in particular cases, exclude any defense based upon the fact that the accused acted under orders of a superior officer or pursuant to state or national policy or upon the fact that the accused was or was the head or purported head or other principal official of a state, and

(d) Open the trials directly to an expeditious hearing of the issues raised by the charges.

(a) There shall be created at the earliest possible moment a full time executive group consisting of one military repre-
resentative each of the British Commonwealth, the United States, the Soviet Union, and France. So far as the operations of this executive group are carried out within Germany or Austria, such operations shall be subject to the administrative direction of the Central Council for Germany or for Austria, as the case may be. This group shall be assisted by an adequate staff of
attorneys and research personnel to compile and analyze data, prepare the charges in the principal case or cases to conform
to the proof and arrange the evidence for presentation to the
international tribunal.

(b) The presentation of the principal case or cases before
the international tribunal shall be made by persons de-
signated by the British Commonwealth, the United States, the
Soviet Union, and France, each of these countries being entitled
to designate one person, who may be its member of the executive
group referred to in paragraph (a) of this article.

(c) The full time executive group shall also be charged
with:

(i) the preparation of pleas for, and general super-
vision of, the prosecution of individuals to be charged
with specific war crimes and atrocities and with complicity
(as mentioned in Article II, paragraph (c) above) in the
basic criminal plan through membership in one of the
organizations herebefore mentioned, not only in the
national courts of the United Nations but also before
commission or other appropriate tribunals.

(2) the organization, through military or civil
agencies of the several parties to this Agreement, of
presenting organizations to prepare and present charges
and to conduct trials.

(3) the planning and making of arrangements for the
detection, apprehension, extradition, transfer, trial and
punishment of persons charged with war crimes and abu-
sities or with participation in the basic criminal plan.

(4) the planning and putting into effect of suitable,
expedient, non-technical procedures for the swift but
fair trial and punishment of war criminals in a manner
consistent with the provisions of this agreement and
designed to be fair but prompt justice those
guilty of war crimes and atrocities.

(5) recommendation to the appropriate govern-
mental authorities of agreements and measures supple-
mental to or in addition to this agreement, necessary
or appropriate to accomplish the objectives of this
Agreement, and

(6) the maintenance of liaison among and with the
appropriate military and civil agencies, authorities and
commissions of or representing any of the United Nations
which are or may be charged with responsibility for any
matters dealt with in this Agreement.

VI

(a) The conclusion and approval of those members of the
tribunal provided for in Article III, designated by the
British Commonwealth, the United States, the Soviet Union,
and France, and of the executive group provided for in Article
IV (a), shall be borne by the respective Governments, just
mentioned.

(b) The emoluments and expenses of the other three
members of the tribunal shall be borne by the Governments of
the other United Nations parties to this instrument.

(c) The emoluments and expenses of the staff assisting
the executive group, and of secretarial staffs for the tribunal
and the executive group, and incidental expenses, such as rent,
heat, light, stationery, and printing, shall be borne in equal
shares by the British Commonwealth, the United States, the
Soviet Union and France.

VII

All members of the United Nations shall be invited by the
Government of the United Kingdom, acting on behalf of the other
signatories hereto, to adhere to this instrument. Such adherence
shall in each case be notified to the Government of the United
Kingdom which shall promptly inform the other parties to this
instrument.

Done at __________________________ this the
day of __________________________ 1962.