

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

RULES OF PROCEDURE OF THE INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST

The present rules of procedure of the International Military Tribunal for the Far East (hereinafter called the Tribunal) as established by the special proclamation of the 19th of January 1946 of the Supreme Commander for the Allied Powers and by the charter of the Tribunal of the same date and the amendments thereto are hereby promulgated by the Tribunal in accordance with the provisions of Article 7 of the Charter, this 25th day of April 1946.

Rule 1. Notice to accused.

a. Each individual accused in custody shall receive not less than 14 days before the Tribunal begins to take evidence a copy, translated into a language which he understands,

- (1) of the indictment
- (2) of the charter
- (3) of any other documents lodged with the indictment

b. Any individual accused not in custody shall be informed of the indictment against him and of his right to receive the documents specified in sub-paragraph a above by notice in such form and manner as the Tribunal may prescribe.

c. Only one counsel shall be heard at the trial for any accused unless by special permission of the Tribunal.

Rule 2. Service of additional documents.

a. If, before the Tribunal commences to take evidence, the Chief Prosecutor offers amendments or additions to the indictment, such amendments or additions, including any accompanying documents, shall be lodged with the Tribunal and copies of the same translated into a language which they each understand shall be furnished to the accused in custody as soon as practicable and notice given in accordance with Rule 1b to those not in custody.

b. Upon application to the General Secretary, an accused shall be furnished with a copy translated into a language which he understands of all documents referred to in the indictment so far as they may be made available by the Chief Prosecutor, and shall be allowed to inspect copies of any such documents as are not so made available.

Rule 3. Order at the trial.

In conformity with the provisions of Article 12 of the Charter, and the disciplinary powers therein set out, the Tribunal, acting through its President, shall provide for the maintenance of order at the trial. Any accused or any other person may be excluded from open session of the Tribunal for failure to observe and respect the directives or dignity of the Tribunal.

Rule 4. Witnesses.

a. Prior to testifying before the Tribunal, each witness shall make such oath or declaration or affirmation as is customary in his own country.

b. Witnesses, while not giving evidence, shall not be present in court without the permission of the Tribunal. The President shall direct, as circumstances demand, that witnesses shall not confer among themselves before giving evidence.

Rule 5. Applications and motions before the taking of evidence by the Tribunal and rulings during the trial.

a. Any motion, application or other request addressed to the Tribunal prior to the commencement of the taking of evidence by the Tribunal, shall be communicated by the General Secretary to the Chief Prosecutor or to the accused concerned, or his counsel, as the case may be, and, if no objection be made, the President may make the appropriate order on behalf of the Tribunal. If any objection be made, the President may call a special session of the Tribunal for the determination of the question raised.

b. The Tribunal, acting through the President, will rule upon all questions arising during the trial, including questions of admissibility of evidence, as to recesses and upon motions, and before so ruling the Tribunal may, when necessary, order the closing or clearing of the court and take any other steps which to the Tribunal seem just.

Rule 6. Records, exhibits and documents.

a. A record shall be maintained of all oral proceedings. Exhibits will be suitably identified and marked with consecutive numbers. So much of the record and of the proceedings may be translated into Japanese as the Tribunal considers desirable in the interest of justice and for the information of the public.

b. As far as practicable, a copy of every document intended to be adduced in evidence by the prosecution or the defense will be delivered to the accused concerned or his counsel or to the prosecution, as the case may be, and also to the officer in charge of the Language Section of the Secretariat of the Tribunal, not less than twenty-four hours before such document is to be tendered in evidence. Every such copy shall have plainly marked thereon the part or parts upon which the prosecution or the defense, as the case may be, intends to rely, and every such copy shall be accompanied by a translation thereof into English or into Japanese, as the case may be, of the said part or parts. If the document is in a language other than English or Japanese, it shall be sufficient for the purpose of this provision if a translation into English or Japanese, as the case may be, of such document, or such part or parts, is delivered to the prosecution or the accused concerned or his counsel, and to such officer.

c. If, during the trial, counsel for the prosecution or any accused or his counsel receives or is apprised of any additional document which he intends to use at the trial, he will at once notify the opposing counsel concerned, or the accused concerned, as the case may be, and furnish him with a copy thereof as soon as practicable.

d. All exhibits and transcripts of proceedings, all documents lodged with or produced to the Tribunal, and all official acts and documents may, with the consent of the Tribunal, be certified by the General Secretary to any government or to any other Tribunal or whenever it is appropriate that copies or representations as to such acts should be supplied upon a proper request.

e. In cases where original documents are submitted by the prosecution or the defense in evidence, and upon showing

- (1) that because of historical interest or for any other reason one of the signatories to the Instrument of Surrender of Japan or any other government which has received the consent of all the said signatories desires to withdraw from the records of the Tribunal and preserve any particular original documents, and
- (2) that no substantial injustice will result,

the Tribunal shall permit photostatic copies of the said original documents certified by the General Secretary, to be substituted for the originals in the records of the court, and shall deliver the said original documents to the applicants.

Rule 7. Seal.

a. The Tribunal shall have a seal which shall be affixed to all summonses and certificates and to such other documents as the President from time to time directs.

b. The Seal shall be kept in the custody of the General Secretary and shall be in a form approved by the President.

Rule 8. Forms of oath and affirmation.

a. The General Secretary and all personnel of the Secretariat of the Tribunal, and secretaries, stenographers, interpreters, and other such persons in attendance on the members of the Tribunal, shall sign and lodge with the Tribunal an affirmation in the following form or to the like effect:

"I, (name and designation), will not disclose or discover any matter coming to my knowledge in the course of my employment in connection with the International Military Tribunal for the Far East, except to another person entitled to be informed of any such matter or to a member of such Tribunal."

b. Every official court reporter and interpreter shall, before commencing his duties, take an oath or make an affirmation according to the forms hereunder set out:

(1) Reporter's Form of Oath (other than Japanese):

"I swear that I will faithfully perform the duties of reporter to this Tribunal.

"So help me God!"

(2) Reporter's Form of Affirmation (other than Japanese):

"I affirm that I will faithfully perform the duties of reporter to this Tribunal."

(3) Interpreter's Form of Oath (other than Japanese):

"I swear that I will truly interpret in the case now in hearing.

"So help me God!"

- (4) Interpreter's Form of Affirmation (other than Japanese):

"I affirm that I will truly interpret in the case now in hearing."

- (5) Japanese Reporters.

"I swear according to my conscience that I will faithfully perform the duties of reporter to this Tribunal."

- (6) Japanese Interpreters.

"I swear according to my conscience that I will truly interpret in the case now in hearing."

Rule 9. Effective date and powers of amendment and addition.

Nothing herein contained shall be construed to prevent the Tribunal at any time, in the interest of a fair and expeditious trial, from departing from, amending or adding to these rules, either by general rules or special order for any particular case in such form and upon such notice as may appear just to the Tribunal.

I certify that this and the four preceding pages contain the Rules of Procedure made by the International Military Tribunal for the Far East.

Wm. F. Webb, President