Germany's planning of measures of rearmament and reorganization of the economic life of Germany "was done on a vast scale and with extreme thoroughness." The following facts found by the IMT are pertinent here:

"It was necessary to have a financial foundation for the building of armaments. The Defendant Goering was appointed coordinator for the rearmament of the Reich, empowered to supervise all rearmament activities in these fields. In this capacity he was the Reichsminister, the Minister of Economics, the President of the Reichsbank, and a consultant to the Prussian Minister of War. These preparations were done on a vast scale and with extreme thoroughness."

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The military application of our people's strength has been carried through to such an extent that within a short time at any rate it cannot be markedly improved upon by any manner of effort.

"The warlike equipment of the German people has at present larger in quantity and better in quality for a greater number of German divisions than in the year 1914. The weapons themselves, taking a substantial cross-section, are more modern than is the case of any other country in the world at this time. They have just proved their supreme war worthiness in their victorious campaign... There is no evidence available to show that any country in the world disposes of a better total ammunition stock than the Reich..."

There was an enormous program of planning and preparation behind those accomplishments and Farbon was a major factor contributing to the results achieved. The record abundantly shows the integration of Farbon with this program. The meeting of the Experts Committee on Raw Materials Questions on 26 May 1936, presided over by Goering and attended by defendant Schmitz, has already been discussed in this opinion. In that same month Farbon through Bosch, the Chairman of the Vorstand at that time, placed the defendant Krauch at the disposal of Goering. Krauch, who was one of Farbon's most capable scientists and administrators, was put in charge of the sector for Research and Development, Important personal
the Vermittlungsstelle W (Dr. Ritter and Dr. Seckel) went over with Krauch to assist in the performance of the tasks assigned to Krauch. Those tasks were to help in preparing for war with reference to raw materials essential to the waging of war. Hitler had already advised Goering in the summer of 1936:

"The German Army must be ready for combat within four years. The German economy must be mobilized for war within four years."

And Hitler told Goering further:

"The German motor fuel production must now be developed with the utmost speed and brought to the definitive completion within 18 months. This task must be handled and executed with the same determination as the waging of war. The mass production of synthetic rubber must be also organized and secured with the same rapidity. The affirmation that the procedure might not be quite determined and similar excuses must not be heard from now on."

The Office of Raw Materials and Foreign Exchange was rapidly succeeded by the Office of the Four Year Plan following the announcement of that plan by Hitler at the Nurnberg Party Rally in 1936. Krauch continued under Goering in the Four Year Plan in charge of facility expansions for strategic raw materials and synthetics. In a speech delivered to the Reich Chamber of Labor on 24 November 1936, General Thomas, Chief of the Military Economic Staff of the Office of the Wehrmacht, described the Four Year Plan as "military economy at its purest." Krauch was Farben's main liaison with the over-all planning of the German armament, but other defendants were extremely active in their respective spheres of responsibility. On 6 and 7 August 1935, defendant Busetefisch attended a conference on the government oil program in Berlin with members of the Raw Materials Staff in which the government oil program under the Four Year Plan was discussed. It was explained by Fischer, head of the Economic Group Motor Fuels, that "the total plan is not adjusted to meeting peacetime requirements, but to the requirements in case of mobilization."

Busetefisch stated that a second stage of development is planned regarding which there would be information eight days later, "with a total of 24 months allowed for construction work". A few days later, on 12 October, 1936, defendants Jahnke and Lautenschlaeger attended a meeting of the Technical Management at Frankfurt/a.M., Hoechst, in which the urgent requirements of Farben for the production of gasoline, rubber and artificial fibers under the Four Year Plan were discussed. Increase in artificial fibers to 85,000 tons per annum by the end of
the year was noted as well as "significant increase" of "manufacture of metals." On 17 October 1936, defendant Schmitz reported to the Aufsichtsrat of Farben on "the great tasks which our firm has with regard to raw materials in the Four Year Plan as announced by the Fuhrer in Nuremberg." Only for the purpose of chronological presentations and logical consideration, the address by Goering delivered on 17 December 1936 to a group of about one hundred leading industrialists is referred to here. Its significance on the question of knowledge by several of the defendants, including Krauch and von Schmitzler, has already been discussed in this opinion.

The year 1937 was an important period in the expansion program of Farben in preparing to meet the requirements of the Four Year Plan. A tremendous outlay of capital was involved, some of which was furnished by Farben but much of which was supplied by the government. On 6 January 1937, a conference was scheduled by Krauch's Office for Raw Materials and Synthetics with representatives of the Office of Ministry Economy, Reich Air Ministry and of the Navy for the discussion of a broad scope of subjects including: (1) plants to be set up for the production of gunpowder and explosives and stockpiling of these materials; (2) plants to be set up for the production of chemical warfare agents and stockpiling of such products; (3) decisions on production (stand-by) plants for calcium hypochlorite or losantin and stockpiling of that product; (4) plan for stockpiling many important items including preliminary products and organic basic materials, such as nitration paper, diglycol, to meet requirements for one year; (5) sites for stock storage dumps or stockpiling of diglycol, ammonia and other chemical products vital for the making of explosives including thioglycol and dichlorodiethylsulphide. In March 1937, Hitler in a speech on the Four Year Plan said: "In two or three years we will be free of requirements of fuel and rubber from abroad,..." On 27 May 1937, Goering approved "the plan of the Four Year Plan for those projects which will be carried out by the Office for German Raw- and Industrial-Materials,..." being a comprehensive survey in great detail covering plans for production, including chemicals, during the four year period.

The projects set out in the survey were checked by Krauch, especially the sectors coming within the Farben area and Krauch discussed the planning in those specialized fields with Farben.

The significance of the Four Year Plan was explained by Krauch in a speech delivered by him and published in the Four Year Plan in
The German people is forced to live in much too restricted a space. Exclusion from the possession of the world's sources of raw materials compels us to produce the materials necessary for her national security by chemical means from her own resources - from coal, salts, lime and other materials, as well as from air and water, that is the purport of the Four-Year-Plan, as described by the Fuhrer in the words: 'I present this today as the new Four-Year-Program. In four years, Germany must be completely independent, as far as concerns all those materials from abroad which it is in any way possible for German skill to produce through our chemical and engineering industries and through our mining industry itself'.

The economic progress achieved by the National Socialist leadership, and rearmament has absorbed for practical ends all that was available in the field of technical and chemical training.....

The following measures seem important:

I. The clarification of public opinion on the importance of science and engineering to our nation and particularly on the following points;

   1. The exploitation of valuable scientific and technical achievements is indispensible to the realization of our political aims....

There can be no doubt concerning Krauch's sympathy with the political aims and objectives of the National Socialist leadership and his eminent standing as industrial scientist meant that he fully understood and appreciated the tremendous contribution Farben could make in achieving independence for Germany in the important raw materials essential for the waging of war.

In explaining the military importance of chemical products including those of Farben, Dr. Elias, a witness, produced by the Prosecution, testified:

German chemical industry was one built on coal, air and water. Supplies of petroleum in Germany are very meager. The maximum production of petroleum in all of Germany from its own oil wells has always represented only a small fraction of its total requirements. Coal, however, is plentifully available and brown coal, which is a sort of lignite, is available in huge quantities and easily accessible to large scale mining. With coal as a basic material and with the aid of air and water, indefinite numbers of organic compounds composed of carbon, nitrogen, hydrogen and oxygen can be made. 84% of Germany's aviation fuel, 85% of her motor gasoline, all but a fraction of 1% of her rubber, 100% of the concentrated nitric acid, basic component of all explosives, and 99% of her equally important methanol were synthesized from these three fundamental raw materials - coal, air, and water.

The military significance of oil is best explained by the fact that in the closing months of the war, after the British and American Air Forces had concentrated on German synthetic oil targets, Germany's large reserve in military aircraft stayed on the ground with empty tanks. Armored vehicles were moved to the front by oxen and every motor trip exceeding 60 miles had to be approved by the commanding general. Without nitrogen, not a single ton of military explosives or propellant powder could have been made. Certain military explosives were entirely dependent on synthetic methanol as well as ammonia. Without rubber, of course,
"The element which is common to the synthesis of liquid fuels, ammonia (from which nitric acid is made), and methanol, is hydrogen. Pure hydrogen is needed to fix the nitrogen of the air; it is needed to reduce the coal tar or coal to liquid fuels; and it is needed to reduce the carbon monoxide made from coal to methanol. It is also needed in certain stages in the production of butadiene for the manufacture of synthetic rubber. Because of this fact several products were manufactured from hydrogen in the same unit in the various I.G. plants. In plants such as Leuna we find not only ammonia being produced but also gasoline, lubricating oil, methanol, and other products. At Ludwigshafen we find synthetic ammonia, menthol, organic intermediates and synthetic rubber. At Waldenburg and Eydekropp there is ammonia and methanol and ethylene. In other words, it was found to be more economical to build several operations which consumed hydrogen around the central hydrogen production so that as the demand for any of the individual products fluctuated, the hydrogen production could be shifted for use to one of the other products and thus kept going.

Well, in summarizing I have indicated the sources of synthetic and by-product ammonia, synthetic methanol, synthetic liquid fuels, synthetic rubber, acetylene, ethylene, benzol and toluene. The actual structure of important intermediates and finished products is built on this skeleton of raw materials; so that starting with coal, air and water, Farben was able to supply Germany with most of its liquid fuels and lubricants, practically all of its rubber, all of its methanol, most of its ammonia, and therefore, its nitric acid and its raw materials for the production of dyestuffs, pharmaceuticals, explosives and poison gases."

In a letter to Goering dated 15 June 1937, defendant ter Meer, after referring to the contract, concluded with the Reich, about the establishment of a large scale Buna plant in Schkopau, said:

"We are willing also to sign contracts of license, each for the period of ten years, with further Buna plants to be established within the Four Year Plan, ....

"This consent to put our patents and 'Know-how' at the disposal of the new plants referred to, by renouncing profit, can only be justified from the point of view of the Four Year Plan ...."
V.!

that of the total to be spent on the Four Year Plan for the entire German
industry, 66.5% was to be used for projects making Farb en products.

It was during the years 1936 and 1937 that Schacht gradually lost
his influence and important standing in the German economy. As was sta-
ted by the BIT, Schacht opposed the greatly expanded program for the pro-
duction of synthetic raw materials, as well as the announcement of the
Four Year Plan with the task of putting "the entire economy in a state of
readiness for war" within four years and Goering's appointment to head it.
The BIT stated: "It is clear that Hitler's action represented a decision
that Schacht's economic policies were too conservative for the drastic
rearmament policy which Hitler wanted to put into effect." Schacht's dis-
agreement with Goering and the policy being pursued resulted in his "even-
tual dismissal from all power of economic significance in Germany." Schacht
contended, as stated by the BIT, "that when he discovered that the Nazis
were rearming for aggressive purposes, he attempted to slow down the speed
of rearmament; and that...he participated in plans to get rid of Hitler,
first by deposing him and later by assassination...Had the policies ad-
vocated by him been put into effect, Germany would not have been prepared
for a general European war. Instistence on his policies led to his even-
tual dismissal from all positions of economic significance in Germany."

While the activities of Schacht were diminished, those of the de-
fendants Krauch and Farben were increased. During the years 1938 and 1939
their intensity can hardly be exaggerated. During that period of time, as
found by the BIT, in March 1938 occurred the invasion of Austria, - charac-
terized by the BIT as "a pro-meditated aggressive step in furthering the
plan to wage aggressive wars against other countries."

Within a month after the invasion of Austria, Krauch's office pre-
pared a report entitled "Assuring of Mobilization Provisioning by Stock-
piling" a copy of which Krauch personally received. Among other things,
the report included:

"A. additional stockpiling for assuring the 1st mobilization Year,
taking into account the stocks already on hand.

"B. additional stockpiling for assuring the 2nd mobilization year,
(supplies on hand have already been used up in the first mobil-
ization year, a possible increase of domestic production has
been taken into account)."

Referring to invasion of Austria, it said:

"The additional mobilization requirements because of the An-
schluss of Austria have not been taken particularly into
account. . . . . .

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"The effects on domestic production because of the inclusion of the Austrian economic area have been taken into account in connection with the considerations."

Concerning rubber, it said:

"Rubber. Here the latest mobilization requirement of 65,000 tons per year has been taken into account. The requirement of approximately 102,000 tons per year, which was mentioned recently, has now been abandoned. Starting with the second year of mobilization, calculated from today, the production of buna will come very much into the picture...."

By the summer of 1938 following the march into Austria and in the period of "crises" prior to the Munich Pact, there was considerable concern within Germany over the possibility of war. Bosch of Farben sought to obtain an interview with Goering to dissuade him but did not succeed in having such interview, Krauch testified, by way of answer to interrogatories, that in June 1938:

"...Dr. Bosch was asking me in Berlin if he could see Goering. He said to me there is a great big talk about war. If they are going to war, Germany is lost."

Krauch further said:

".....I told Korner that I had knowledge now of the figures that are given to the government about building up of the production in the Four Year Plan. Figures about the production of gasoline, of Buna, of artificial products, etcetera, which show what we are going to do in 1938 and 1939. I know that these figures are wrong. I was talking a week before with Major Loeb about these figures and I told that there is great danger in giving at this time wrong figures to the Government. It may be possible if one deciding man knows about those wrong figures and he is thinking about war, he would decide against it. If he knows we are not independent in the war he would decide against war. That is a great danger in the wrong figures question. Then Korner told this to Goering. Goering said to me the next day: 'You have given other figures than we have in hand.' I told him the same thing I had told Korner that it is a great danger to give out wrong figures, and I know quite well the production of all the plants of I.G. The production is not so high as the Four Year Plan men has given to Goering....."

"Goering said: 'I will talk with Keitel about the figures, and the next day, you will have to come over and we will talk again.' The next day, he said: 'I have talked with Keitel who said that our figures are right. Much work has been done in the building up of for two years so high, and now they had the production of explosives said to Goering that these figures are wrong. I know the production of nitrogen and other raw materials for the plants that make explosives. And I can say they can only make so much explosives. And then Goering said to me: 'Now, I have confidence in your figures.' Then maybe three or four days later, I had to come to Goering's place and he said to me: 'Now, you will have to make a survey of all the production for the future. If I want to know about the figures I will call on you. In order that you can have the figures from the industry or from OKW, I nominate you to General Bevollmaechtiger fuer Chemische Industrie.'"
At another time, while being interrogated, defendant Krauch said:

"Q. At that point, what steps were taken by I.G. similar to the one which Dr. Bosch attempted to take in June 1938, when he went to see Goering, to try to halt the Nazis from going to war?

"A. I have answered this question before. We did nothing officially, but unofficially various people of the I.G., were talking to different men of the government. I was talking every month and saying that this is an impossible thing...."

There is in the evidence a comprehensive report dated 27 June 1938 concerning the "program for the manufacture of chemical warfare agents and explosives in Germany" and with particular reference to the Farben production made in compliance with the request from Krauch. Krauch, on 30 June 1938, submitted to Goering an "accelerated plan for explosives, gunpowder, intermediates and chemical warfare agents." This plan was adopted by Goering but was soon supplanted by a plan drafted by Krauch, dated 12 July 1938, called the Military Economic New Production Plan, also called the Krauch Plan or the Karinhall Plan, according to the goal for the new production plan "set by the Generalfeldmarschall on 30.6.1938 in Karinhall."

This plan covered mineral oil, rubber (Buna) and light metals in addition to gunpowder, explosives and chemical warfare agents. The utmost acceleration of building and production projects keyed to definite mobilization targets was provided in these plans. At a conference between Goering and OKW at Karinhall on 18 July 1938, Goering said that the Four Year Plan's function consists in preparing the German economy for total war in four years; he also said that "In the event of IX-Fall 1938, will be continued with special emphasis on projects essential to the war effort (production of Buna, Ore, Fuels, Explosives, etc.)."

A document bearing that same date, to-wit, 18 July 1938, entitled "Measures in accordance with order dated 15 July 1938 for the execution of the new military economic production plan" lists nine different commissions given to Farben plants for the production of chemical warfare agents and diglycol.

On 22 July 1938, defendant Krauch wrote a letter to State Secretary Koerner stressing that industry was willing to take upon itself greater responsibilities in the field of rearmament. In that letter, Krauch said:
...the development of the processing and creation of these materials [intermediate products for gunpowder and explosives] is the concern of the industry. The fertilizer nitrogen basis becomes at once, by its export decline in the case of mobilization, the backbone of the whole of the nitric acids and of ammonium nitrate. This applies particularly to the whole of the ethylene chemistry which is inextricably bound up through di-glycerol for gunpowder and the chemical warfare agents with the entire industry of the coking plants and mineral oil synthesis...as far back as the end of 1936, (emphasis supplied) repeatedly directed the attention of the Wehrmacht to the urgent necessity of stockpiling. Already at that time, for example, I requested that considerable quantities of Toluene be stocked up for existing explosives factories... The firms concerned are willingly prepared to assume the responsibility themselves for the quickest possible rush execution... The industry has already undertaken to devote its best abilities to the carrying out of the task I should set them, the production of gunpowder, explosives and chemical warfare agents are chemical processes. They cannot therefore be treated as distinct from the rest of the chemical industry. I should, of course, act in the closest cooperation with the OKH [Army Ordnance].

Subsequently, on 13 August 1939, Krauch prepared the so-called "Rush Plan" and laid the basis for its expeditious execution in agreement with the High Command of Army Ordnance (General Becker) and the Office of Military Economy (General Thomas).

A document dated 22 August 1939 entitled "Order for carrying into effect the New Military Economics Production Plan and the Rush Plan" states:

1. The carrying into effect of the Military Economics new Production Plan and of the Rush Plan ordered for the expansion of the plants producing powder, explosives and X-agents (chemical warfare agents) and their primary products is entirely entrusted to Dr. Krauch. He, therefore, is fully responsible for the execution of the program within the time set, and for procuring the means required incidental thereto (money, steel, building materials, labor, etc.).

a. Program and planning: Dr. Krauch
In setting up the program and the planning the military points of view for which the Wehrmacht is responsible are to serve as a basis and its chemical and technical demands made by it are to be considered in largest measure.

3. To assure the closest possible cooperation between Dr. Krauch and the OKH (Wa A) the following measures are to be carried through:

a. Creation by Dr. Krauch of a Building Staff for which OKH (Wa A) delegated a permanent representative.
"b) Assignment of a permanent representative of Dr. Krauch to OKH (Wa A).

c) Creation by Dr. Krauch of control agents (authoritative specialists) who, together with Dr. Krauch, are also at the disposal of OKH (Wa A) for control purposes."

Leading Farben personnel were frequently called upon by Krauch as advisors in the execution of projects of the Four Year Plan. Farben and its subsidiaries supported the execution of the plan and a large percentage of the total expenditures under the plan was allocated for Farben projects.

Farben's plant investments rapidly rose as a result of the Four Year Plan. In the execution of "new military economic plan" immediate instructions and commissions were issued to Farben to increase production facilities for chemical warfare agents and diglycol, an essential intermediate for explosive production.

Krauch remained with the Four Year Plan throughout this period of intensive acceleration of rearmament. After referring to an implementation survey in August of 1939 shortly before the outbreak of the war with particular emphasis upon the case of war in the fields of mineral oil, Buna, chemistry, light metals, and the "rapid plan" for powder, explosives, and chemical warfare agents, Krauch, following the outbreak of the war, proposed further plans for increased production in September 1939.

Krauch during the war participated in meetings of the General Council of the Four Year Plan where he occupied a position of dominating importance in the planning for and supplying of the fighting forces with munitions and war materials. He remained in that position throughout the war.

Krauch continued as a member of the Farben Vorstand until 1940, although often his work in the Four Year Plan prevented his attending its meetings. In that year he was elevated to the position of Chairman of the Aufsichtsrat of I.G. Farben.

d) Creating and Equipping the Nazi Military Machine.

The activities of the defendants through Farben as an instrumentality for the production of vital chemical war products included:
Explosives:

Farben had large responsibilities and carried out a tremendous program of activities in the production of explosives.

A large planned expansion in military explosives began in 1934. Generally a Reich owned corporation - Montan - built the plants and leased them to private explosive companies, which were predominately Farben subsidiaries for the manufacture of explosives. By 1939, a large stockpile of powder had been built, totalling about 187,000 tons. Consumption of powder by the German Forces averaged 3,000 tons per month in 1940 and 5,000 tons per month in 1941. Germany was dependent almost exclusively upon Farben for raw materials and intermediates necessary to make explosives and gunpowder. In the evidence is a chart from the records of the Reich Office for Economic Development entitled "Interlocking of Raw Materials of the Production of Powder, Explosives and Preliminary Products." Defendant Faber testified concerning this chart, "This presentation is chemically correct." It shows that for the production of explosives and powder and chemical warfare agents these raw materials and intermediates are necessary which were produced predominately by Farben.

The production outlined in that chart has been made possible by the development during the first World War of the Haber-Bosch process for the production of synthetic nitrogen by Farben. As a result of that development, Farben enabled Germany to produce explosives without relying upon the imports of Chilean nitrates.

Farben planned facilities for production of nitric acid solely for the Ruhmacht in the event of war; Farben stockpiled pyrites, the basic raw material for sulphuric acid essential for the process of nitration; Farben increased Germany's production capabilities for nitric acid many times prior to the outbreak of the war in 1939.

Farben manufactured all of Germany's diglycol, an intermediate product for the manufacture of gunpowder. It was developed as a substitute for nitroglycerine. By the middle of 1937, Farben had planned an enormous expansion of diglycol production at Wofe and with the entire amount to go to the explosive manufacturers of Dynamit A.G. and VSW. According to a report dated 9 February 1939 by the Army Ordnance Office, at that time the production capacity for diglycol at the I.G. Farben plants in Ludwigshafen, Wofe, Schkopau, Mercedes and Trostberg was sufficient to produce 50,000 tons of gunpowder per month.
Second only in importance in nitrogen was the production of methanol, which is an essential product in the making of the most effective explosives, hexogen and nitropenta. Farben produced all of the methanol in Germany. The report of the Army Ordnance Office of February 1939 showed the planning of additional facilities for the production of hexogen by Farben at that time. As early as 1935, Farben developed hexogen and experimental factory to gain manufacturing experience. This was in close collaboration with Dynamit A.G. and Army Ordnance. Hexogen has no substantial peace-time use.

Farben produced all of the stabilizers in Germany. These products are essential to preventing premature explosion of gunpowder. The construction of stand-by plants for stabilizers was planned by Farben in conjunction with the Army Ordnance department of the Wehrmacht as early as 1935. The production planned even at that early date has been estimated as sufficient to sustain production of 11,875 tons of gunpowder per month.

Much conflicting evidence has been presented as to whether Farben and its subsidiaries produced most of the high explosives and gunpowder used by the German forces. The evidence shows that Dynamit A.G., Haasorganisch, Verwalt organisch and Deutsche Sprengorganisch produced most of the high explosives and gunpowder from raw material and intermediate products of Farben. Heinrich Schindler, a defense witness who was Chief Engineer in the Dynamit A.G., testified that based upon detailed compilations made by him, subsidiaries of Farben produced 92% of all explosives used by Germany from 1930 to 1944 and 65% of all gunpowder during the same period. For the year 1936, they produced 82.5% of all explosives and 100% of gunpowder.

It was seriously contended, however, that Dynamit A.G., the largest producer of explosives, was an independent enterprise for which Farben was in no way responsible. I have carefully reviewed the evidence and concluded that the control of Dynamit A.G. rested with Farben and it cannot escape responsibility for the direct production of explosives in the war program.

The elements of control of Dynamit A.G. by Farben included (1) financial through its holding of 69.5% of total preferred and common stock and a contract dated 17 September 1926; (2) "organizational" through being grouped in Sparte 3 under defendant Gauffi, who was a member of the Aufsichtsrat of the Dynamit A.G. (1926-1945), and through defendant Schütz, who was a member of the Aufsichtsrat (1926-1945) and Chairman of the Aufsichtsrat of Dynamit A.G. from 1933, on, and Paul Kiessling, Director.
General of Dynamit A.G. being a member of TWA of Farben; (3) economic through its dependence upon Farben plants for their intermediates for the production of explosives and gunpowder and the requirements that Dynamit A.G. had to get approval of Farben for expansion or construction of new plants and replacement of machinery; and, (4) other devices of control. As to the relationship of Farben and Dynamit A.G., the evidence compels the conclusion that for all practical purposes Dynamit A.G. was a subsidiary of Farben under its effective control. It should be noted that Dynamit A.G. controlled still other enterprises in the explosive field, including Vorwertechnic, admitted by the defense to be "a 100% subsidiary company to DiG," and described by defense as "the center of the armament production of the DiG-Konzern."

Synthetic Gasoline

Farben had expended enormous sums of money on the development in the experimental stage of its process for the production of synthetic gasoline. Prior to Hitler's seizure of power, the synthetic oil program was under attack in the Nazi-press. The defendants Buctofisch and Gattinozu in 1932 went to see Hitler and received assurances that the attacks would cease and that the program would receive his support.

Following the accession of Hitler to power an agreement was entered into on 10 December 1933 between Farben and the Reich Ministry of Economic under which Farben received a guarantee both as to price and volume of sales in connection with the production of synthetic gasoline. The agreement was of such importance that it had to be submitted to the personal attention of Hitler. Farben started large-scale expansion in the production of synthetic gasoline and the Luma plant in the spring of 1933. The defendant Buctofisch has stated:

"I do not forget the day of year 1933"... "when I could accept from the Reich Government in Berlin the order to proceed and expand with all possible energy the production of benzine, which for reasons inherent in political economy could not be fully developed prior to the taking-over of power. From that day on we find ourselves in this invariably great experience of expanding our industry, in a measure heretofore unknown."

While it is undoubtedly true that considerable peace-time expansion in gasoline production was warranted in connection with increased motorization of Germany and the autobahn construction, it is also true that the military considerations were inextricably connected with synthetic oil program and the military
importance rapidly became the predominating consideration. As early as 11 October 1934, General Bockelberg, Chief of the Army Ordnance Office, conferred with Farben representatives Krench, Schneider and Bostalisch regarding measures to be taken in the fuels field in the event of war. To expand the basis of production Farben became a co-founder of the Brabag and issued licenses to that company under its hydrogenation patents. Farben developed high-grade aviation gasoline for the Luftwaffe. Further Reich subsidies were obtained. Göring at the meeting of 28 May 1936, attended by the Defendant Schütt, already referred to above.

The Military Economic Staff of OID in a report of January 1939 observed that ". . . mineral oil is just as important for modern warfare as airplanes, armored vehicles, ships, weapons and munitions . . ." An official report prepared by the Enemy Oil Committee for the Fuels and Lubricating Division Office of the Quartermaster General of the United States Army in March 1945 on Petroleum Facilities of Germany correctly summarizes Farben's contribution in the field of synthetic gasoline and lubricating oils as follows:

"The outstanding feature of German oil economy during the past ten years has been the spectacular development of her synthetic oil plants for the production of oil from coal. This attempt at complete oil autarky, made without regard to cost or orthodox financial considerations, has no parallel elsewhere and is a striking example of the character of the German master plan for world domination which called for the production, within her own boundaries, of all the resources essential to modern warfare . . ."

Synthetic Rubber.

Equally effective in the equipping of the Nazi military machine was Farben's activity in the field of synthetic rubber production from coal. Following development of the experimental process numerous conferences were held between Farben representatives and Reich agencies as the Army Ordnance Office and the Reich Ministry of Economic during 1933 to 1936. As a result of these negotiations an intensive program to produce synthetic rubber in large quantities was developed and was subsequently expanded during 1936 and 1937 with the aid of various Reich subsidies as the possible military needs became more numerous and urgent. The volume of planned production in this field was far beyond the needs of peace-time economy. The huge costs involved were consistent only with military considerations in which the need for self-sufficiency without regard to the cost was decisive. Military and political considerations were controlling.
in the development of this program. The truth of the matter is stated by
the witness Ellis when he testified that the "German Army "planned practically
their entire dependence on Farhen's synthetic rubber." There can be no doubt
that Farben's production of synthetic rubber made it possible for the Reich
to carry on the war independently of foreign supplies, an accomplishment
which would have been impossible without Farben's synthetic rubber development.
The defendants Krupel, ten Hoor and Annes were particularly active in the
development of this phase of Farben's contribution to preparing Germany
for war.

Light Metals.

As early as 1930 the Reich Air Ministry was giving consideration to
the requirements of material for fighter aircraft, and State Secretary Licht,
at a discussion in the Air Ministry on 14 September 1933,

"... expressed his agreement with the proposals to bring in
new plans for the manufacture and especially approved the in-
stitution of a new tube rolling mill, at the enlargement of
production at Bitterfeld an of a new electron metal finishing,
plant on the basis of magnesium-aluminium. This applied also to
the manufacturing preparations for Tannite which would become
necessary. When it was pointed out the high costs which would
be incurred for manufacturing preparations, State Secretary
Licht declared that the necessary means would be made available.

"With regard to the very high replenishment requirements in
electron metal bombs, it was pointed out on the part of Luft
that the manufacturing preparations would presumably necessitate
the erection of a number of new electron metal works and probably
even new electric power plants which would not be maintained by
peace-time orders."

In that same year the cooperation of Farben with the Reich Air Ministry
began. Dr. Ernst Struss, Secretary of the Technical Committee of the Vorstand
of Farben, who appeared as a witness both for the Prosecution and Defense,
said:

"In 1933 I.G., received from the Luftwaffe, the order to build magnesium
plant with the capacity of 12,000 tons a year. The Luftwaffe selected
the site in Alton. The plant was partly completed in 1934 when pro-
duction started. The plant and its production was to be kept secret
by order of the Luftwaffe.

The negotiations for the construction of the plant by I.G., were
carried on between the Luftwaffe and Dr. Pistor of Bitterfeld. Sub-
sequently Dr. Pistor received from Sosnit a kind of blank approval
to carry on with the negotiations. This procedure was not unusual at
that time. The financial arrangement with the Luftwaffe had already
been made before the project was submitted to the TE....

The total investment for magnesium and aluminium in Alten amounted to
about 24,000,000 marks; and for magnesium alone it amounted to about
49,000,000 marks. I.G., furthermore obtained a special concession from
the ministry of Finance authorizing I.G., to provide for an annual 20%'
depreciation on machinery in the plant. The normal depreciation
was 10% and so I.G., obtained a considerable advantage.
"Before the plant was actually built, the Luftwaffe carried out a number of tests from the air in order to ascertain how the plant itself could best be camouflaged. In accordance with the results of these tests in which Bitterfeld's chief engineer, von der Bay, participated, the plans for the plant were repeatedly changed until the Luftwaffe was satisfied that the plant was well hid from the air. Dr. Pistor subsequently stated in the TEA that considerable additional costs had to be incurred by I.G. on account of the camouflage requirements.

"Also by order of the Luftwaffe, I.G. started planning in 1934 another magnesium factory, for which the Luftwaffe selected Stassfurt as its site. Construction of the plant started in 1935 and it was completed in 1938... The production capacity for magnesium was 13,000 tons a year since 1942. The total investment amounted to 50,000,000 marks. The Luftwaffe financed the construction by granting a credit of 44,000,000 marks. Here again the Ministry of Finance agreed to increased depreciation at the rate of 20% yearly.

"For Aken as well as Stassfurt, I.G. was permitted to charge to the Luftwaffe an increased amount over the cost price and the normal profit in order to be able to repay the credits out of the accrued extra profits."

While on the witness stand, Dr. Struss stated that the credit of 44,000,000 Reichsmarks referred to from the Luftwaffe was for both the Aken and Stassfurt plants. At another time, Dr. Struss said:

"...Shortly after start of production in Aken, probably in the summer of 1935, I visited Aken as well as Bitterfeld and noticed that without doubt practically the entire production was stored there in the form of tubes and packed into cases. These tubes had a diameter of 8 cm, a 1 cm wall and a length of 20 cm. Without doubt these tubes were parts for incendiary bombs. These tubes were packed into standardized boxes and were called 'Textile Shells' (Textilhuelsen). Everybody laughed, whenever somebody spoke about, or mentioned, 'Textile Shells' (Textilhuelsen). The meaning was common knowledge, and therefore everybody grinned whenever 'Textile Shells' (Textilhuelsen) were transported through the plant.

"As well as Stassfurt had been built with loans made by the Air Force (Luftwaffe) and the I.G. carbon was given five years for the repayment of the loans and special amortization privileges. The Air Force (Luftwaffe) also paid much more than the cost price for magnesium and took the entire production of the plants. During the first two years' existence of Aken at least 90% of the magnesium produced in Aken and Bitterfeld were made into these tubes and shipped out..."
In 1958, arrangements were made between Farben and the Reich Air Ministry for "a second milling plant for Bi IV/l-powder." Bi IV/l-powder is explained as a powder consisting of aluminum and magnesium half and half used in flares and incendiary bombs. In a letter from the Reich Ministry of Aviation and Commander in Chief of the Luftwaffe to Farben, dated 7 September 1938, it was stated:

"...It is to be planned for a monthly production of 75 tons of Bi IV/l-powder under the mobilization program. It must be expressly confirmed by you that the total production in the event of mobilization will amount to 150 tons monthly in both plants.

"II. Implementation of your Plan.

"In enlarging your Bitterfeld plant to the size necessary for the above mentioned task, all measures necessary to ensure the quickest possible commencement of production are to be taken."

With reference to the quantity of production of magnesium and aluminum by Dr. Farben, Dr. Struss said:

"In 1930 the Magnesium production of I.G. Farben amounted to 600 tons. In 1942 the production was 25,100 tons. Farben had thus increased its magnesium production by over 4,000 per cent.

"Farben's share in the aluminum production in 1930 was 1,750 tons and in 1942 it was 24,000 tons. The increase in Farben's aluminum production was therefore just over 1,300 per cent."

The report of Dr. Eberhard Houkirch on the "Development of Light Metals Industry within the Four Year Plan" dedicated to the defendant Dr. Krueck shows that by 1939 the Farben plants of Bitterfeld, Alken and Stassfurth had reached a capacity of 17,100 tons per year of magnesium and that expansion plans were already projected for increasing the existing plants by 16,900 tons per year and the creation of an additional plant at Gersthofen by Farben with a capacity of 6,000 tons per year. In 1932 Farben produced 1,400 tons of aluminum; in 1939, 16,500 tons and in 1943, 24,000 tons. Thus, it appears that the capacity of Farben plants for the production of light metals increased manifold during that period.

As is pointed out by Dr. Houkirch in his report, with the conquest of Norway, Farben undertook to carry out additional plans for increased production of light metals in Norway through the exploitation and use of facilities of Norsk Hydro.
Chemical Warfare Agents

While so far as is known poison gas was never used in World War II, Farben participated extensively in experiments and in preparing for and producing poison gas during the years immediately preceding and during the war. The defendant Ambros may be credited with having participated in dissuading Hitler from the use of poison gas.

There was a close relationship and interlocking of preliminary products needed for the manufacture of explosives, gunpowder and chemical warfare agents. Farben's contribution to the preparation for chemical warfare included research, development and production of mustard gas, tear gas, nitrogen mustard gas, adamsite (throat irritant) and phosgene. The development and production of chemical warfare agents were closely related to and were coordinated with the production and development of other chemical war material.

The contract between Farben and Orgacid, dated 22 July 1935, for the production of Ethyl-oxide from alcohol and the production of polyglycol II from Ethyl-oxide, under which Farben was "to give all chemical technical advice... including the experimental work which may become necessary," is a typical example. In 1936 and 1937 there was continued planning with reference to research and production of chemical warfare agents. There is in evidence a detailed "accelerated plan" dated 30 June 1938 outlining an acceleration of the expansion program for the production of many chemical products including chemical warfare agents. Following his appointment by Goering as "his Plenipotentiary in this field of work," Krauch in a communication to the Ludwigshafen plant of Farben dated 26 August 1938 urged the early completion of building projects for several chemical products, including mustard gas," for which no postponement of the deadline set for their completion can be tolerated."

The capacity of planned poison gas plants on 1 September 1939 for which Farben was responsible was over 75% of total capacity, and by December 1942, Farben's share was estimated by the Krauch office to be 90%.

The evidence in the record makes it abundantly clear that the predominant responsibility for research and production in the field of chemical warfare agents immediately preceding and during the war was that of Farben.

Expansion of Plant Facilities

The rearmament program required an enormous outlay of capital for expansion of plant and production facilities. To meet these demands, special financial
Arrangements were made by Farben with the Reich taking into consideration the nature of the plants and their equipment, their purposes and the amount of capital required. The records of Farben show, generally speaking, that three different plans were used: (1) Contract plants for which loans were obtained from the Reich or a Reich agency chiefly for the construction of new plants under arrangements whereby the loan was paid off over a period of years by the allowance of depreciation write-offs at an accelerated pace and rate. Under this plan the loan was actually paid off through the increased price paid for the products of the plant. Among the expansions so financed were plants at Bitterfeld, Aken, Rottweil and in the Louna Works; (2) four-year plants, built with Farben funds on order from the Reich under arrangements whereby either: (a) the Reich agencies refinanced to Farben the cost of construction by the payment of annual installments under a redemption plan fixed by contract, or (b) Farben was permitted by the contract to include increased rates of depreciation in the calculation of prices until the cost of installation had been absorbed. Expansions under this plan were not independent plants but were extensions of existing Farben plants; (3) other forms of governmental financial aid to Farben including: (a) subventions paid to Farben for carrying out special building projects, (b) proceeds tax, as from buna sales, which could be used in construction of other plants as was the case of the Auschwitz buna plant, or (c) tax concessions for new products, as for cellulose at Holon and for buna at Schkopau and Huls, and (d) East Relief Tax Decrees allowing liberal exemptions from appraisal of investments.

The agencies used by the Nazi Government in carrying out arrangements for expansion of plants and production facilities included the Reich-owned companies of "Hontan" and "Wife". Often the contracts for construction and operation of such plants by Farben included Wife or Hontan as a party. Of the 37 Hontan chemical works, 36 were built and operated by Farben and its subsidiaries. Witness Zeidlhauck estimated that the capital value of these works alone totalled 1.2 billion Reichsmarks. He also said that "of a total of 76 chemical projects of the Army Ordnance Office, no less than 75 were executed by the I.G. and either operated, or controlled by them."
Zoidelhack further said that in the development of the expansion program, Farben "dislosed a particularly pronounced initiative in finding building sites and in the drawing up of specific plans. Without the intensive co-operation of the IG, including the DAG, and its experience and initiative, the carrying out of the chemical projects of the Army would have been impossible."

While Wifo was predominately a Reich company, Farben owned one-fourth of the "foundation capital." Wifo had to do primarily with production and storage of critical war material, such as sulphuric acid and nitric acid, and the establishment of stand-by plants, commonly called shadow plants, which were to be put in extensive production only in the event of war.

In the minutes of the EMA meeting held in Berlin on 30 June 1943 is a review of the condition of Farben plants on account of destruction by bombing. It shows such a possibility had been contemplated in working out the expansion program since 1933. It is said in those minutes:

"The increase in existing production which has been going on since 1933, and the assimilation of new manufactures, gave early cause for the basic decision to be made to set up new large plants for this purpose, which, apart from new manufactures, should take over also products which had already been manufactured in the old IG Farben plants. In the field of organic-chemical goods, Schkopau was founded in 1935, where, together with Buna production, large-scale manufacturing of phthalic acid, acetic acid anhydride, vinyl chloride, and Igolit was planned, in order to cut out further increases in western production. The foundation of the major plants:

1938 Landsberg
1938 Huols
1938 Hoenfievorkum
1939 Hoydebrook
1941 Auschwitz

followed, whose location and production program were chosen from the outset in such a way that they would take over such manufactures as already existed in other, principally western, plants."

With reference to financing of new plants, witness Donckor said that Farben "took the position that the total facilities available at that time [1934] were sufficient to cover the peace-time needs." As a consequence, Wifo was formed "to expand the production of nitric acid, for which I.G. was not prepared to furnish its own means." All those plants, however, were operated by Parben.

It is evident that no consistent policy was followed by the Reich and Farben with reference to the financial arrangements made for the expansion program. Generally when the expansion was outside of, or exceeded, the peace-time requirements
of Farben, some special financial arrangements were made to lighten the financial burden on Farben and make the program financially attractive.

The minutes of the Vorstand of Farben for 25 September 1941 show that Farben expended for new construction for the period from 1932 to 1941 two billion Reichsmarks.

The evidence shows that of the many Farben diverse products, the following were strategically important war materials: Nitrogen (Ammonia N), Diglycol Explosives Gunpowder, Synthetic Gasoline, Tetraethyl-lead, Synthetic Rubber, Magnesium, Aluminium, Poison Gas, Sulphuric Acid, Chlorine Caustic Soda and Petrol, Calcium Carbide, Sodium Cyanide, Stabilizers, Methanol, Other Solvents. Farben’s records show an enormous expansion of its production facilities for those materials in the years from 1932 to 1941. In 1932, Farben’s investments for production of those materials was 1,301,000 Reichsmarks; in 1933, it was 12,215,000 Reichsmarks (almost three times as much); in 1938, it was 225,223,000 Reichsmarks (about 15 times as much); and, in 1943, it was 121,500,000 Reichsmarks (more than 86 times the 1932 investment).

From a maze of statistical and detailed information in the record in this case emerges a picture of gigantic proportions depicting feverish activity by Farben in a warlike atmosphere of emergency and crisis to rearm Germany in disregard of economic considerations and in complete sympathy with any demands made upon it by the Nazi regime. There is nothing in this record to suggest that Farben and these defendants ever withheld any energy or initiative that was calculated to help Hitler in plans to build a Germany that would be strong enough militarily to master the world.

(e) Stockpiling of Critical War Materials

In this summary of Farben’s cooperation in the rearmament of Germany, reference has repeatedly been made to the stockpiling of critical war materials. As early as 1935, Farben began stockpiling war materials in cooperation with the Government’s program of economic preparation for war. From that time on, Farben pursued and increased its program of stockpiling of strategic materials. Beginning in 1935, periodic reports of stockpiling of "iron pyrites" were made by Farben to the authorities; beginning in the summer of 1935, tubas for incendiary bombs were stored at Aken under the guise of textile shells; from an inspection report dated 11 September 1935, entitled “Nickel Factory Oppau,” copy of which went to defendants Krauch, Hausfliger, and Gattineau, plans for “a large supply of nickel-copper-ore for stockpiling” were reported.
The defendant Haefliger was especially active in obtaining import of nickel by exploiting Farben's international cartel arrangements. Farben had a contract with The Hard Nickel Company Limited of England, for delivery to Farben of a quantity of nickel each year. The minutes of a conference at Ludwigshafen, attended by defendant Haefliger, concerning the stock of nickel, on 5 April 1939, comments that the reports to the English company as to the consumption of nickel in Germany "should no longer be made in the hitherto detailed form" as "Berlin is very much against such reports"; the minutes refer to "tendency in Berlin to import into Germany ...nickel raw materials from another source, the import of which is not linked up with such suspicious conditions from a military economic point of view." In a memorandum by defendant Haefliger, dated 19 October 1939, is set out a contract with the International Nickel Company of Canada, which the memorandum states controlled approximately 85% of the world's production of nickel, whereby "IG succeeded in persuading the trust to store a very considerable supply of nickel concentrate ...in Germany at its own expense, for the benefit of IG"; in that memorandum Haefliger commented that up to the last days before the outbreak of the war, the International Nickel Company had taken no "steps to eliminate the risk, to the tune of several million marks, involved in storing such quantities."

In 1935, Farben undertook the construction of a bomb-proof gasoline depot for the storage of gasoline, and in 1936, at the request of the German government Farben, taking advantage of its close relationship with Standard Oil Company, arranged to buy twenty million dollars worth of gasoline, the funds for which were furnished by the Government in order to build up its stock of gasoline. In July 1938, tetraethyl lead also was obtained from America. In regard to that transaction, witness Hense of Farben said:

***At the request of the Air Ministry and on direct order of Göring, I.G. Farben procured in 1938, 300 tons of tetraethyl lead from the ETHYL EXPORT CORPORATION, of the United States. The Air Ministry needed this lead because it is indispensable to the manufacture of high octave aviation gasoline and because they wanted to store up the lead in Germany to tie the Air Ministry over until such time as the plant in Germany could manufacture sufficient quantities. We were producing sufficient quantities of tetraethyl lead for ordinary purposes but the storage of the 300 tons of tetra-ethyl lead was undertaken because in case of war Germany did not have enough tetra-ethyl lead to wage war for which reason the German Reich pursued a stock-piling policy.***
"Finally, it was decided to procure the tetraethyl lead on a
lean basis. All the gentlemen were very bewildered as SCRRING de-
manded a report by noon the next day. It was commonly known that
tetraethyl lead was needed as the German production in tetra-ethyl
lead while sufficient for peacetime purposes, was not sufficient to
wage war, and we had to obtain it immediately for aviation gasoline."
In November 1939, "Vermittlungstelle" sent circular letters to various plants of Farben notifying them of the requirements of the Reich Economic Ministry that insofar as possible three weeks' stocks are to be stored in addition to the normal stocks "so that in the event of mobilization production can be continued as a result of accumulation of stocks."

It is clear from the evidence in the record that, in cooperation with the Reich agencies, Farben carried out through the years preceding the war an extensive program of stockpiling of strategic and critical war materials in anticipation of the requirements if war should come. Farben utilized its international connections in carrying out such stockpiling often concealing the true objectives of the transactions.

(f) Use of International Agreements to Weaken Germany's Potential Enemies.

In the conduct of its world-wide enterprises, Farben had numerous contacts and arrangements with business concerns of other countries. Through cartel agreements, plans for sharing of patent rights, association of interests and many other reciprocal arrangements with business enterprises throughout the world, Farben was in a strategic position to serve the expanding purposes of the Nazi government.

Among these international agreements was a contract between Farben and the Standard Oil Company of New Jersey under which Standard Oil Company acknowledged Farben's supremacy or priority all over the world in the chemical field and Farben deferred to Standard Oil's leadership in oil everywhere except in Germany.

In a letter dated 9 November 1929, Mr. Toagle, President of Standard Oil, referring to the agreement of that date, set out an understanding of the intentions of each party "to hold itself willing to take care of any future eventualities in a spirit of mutual helpfulness" and more particularly he said:

"In the event the performance of these agreements or of any material provisions thereof by either party should be hereafter restrained or prevented by operation of any existing or future law, or the beneficial interest of either party be alienated to a substantial degree by operation of law or governmental authority, the parties should enter into new negotiations in the spirit of the present agreements and endeavor to adapt their relations to the changed conditions which have arisen."

This agreement of 1929 was followed in 1930 by another agreement, the purpose of which was stated to be "the desire and intention of the parties to develop and exploit their new chemical processes jointly on the basis of equality (50-50)."
A jointly owned corporation called Jasco was organized to develop any processes turned over to it either by Standard Oil Company or Farben. It was agreed by the parties to the contract that the development of synthetic rubber processes, as well as the developments in the synthetic rubber field, should be turned over to Jasco.

Early in the Nazi regime, indications of limitations imposed upon the relationship of German enterprises with those abroad began to appear. However Farben continued its policy of negotiating and making international agreements within their field of interest. On 9 March 1931, Farben wrote Chemyesco, its subsidiary in New York, in connection with the view which "the German Government takes of international agreements about technical collaboration" that "we should... not allow foreign industry to gain the impression that in this respect we are not free to negotiate."

In a memorandum dated 21 June 1935, concerning a conference held on 21 June 1935 between Farben and the Army Ordnance Branch at Ludwigshafen-Opp, it was said:

"The I.G. is bound by contract to an extensive exchange of experience with Standard. This position seems intangible as far as developmental work which is being carried out for the Reich Air Ministry is concerned.

"Therefore the Reich Air Ministry will soon conduct an extensive examination of applications for patents of the I.G.

"Furthermore, the I.G. will suggest the necessary security measures to the Reich Air Ministry under special consideration of the situation."

Even though the conflict between the obligation of Farben under its agreements with Standard Oil and the requirements of the German authorities was thus early realized by Farben, nothing was done by Farben frankly to inform Standard Oil of its situation and to "enter into any negotiations in the spirit of the present agreement and endeavor to adapt them relative to the changed conditions which had so arisen." Rather Farben pursued a policy, in cooperation with the Nazi Government, calculated to mislead the Standard Oil Company. Howard of Standard Oil had occasion to express the understanding of his company concerning these contracts with Farben in a letter dated 27 July 1936 in which he said: "The arrangement is one which necessarily requires good will on both sides."

On 14 July 1937, there was a meeting at the Wehrmacht office on "maintaining secrecy on improvements of I.G. processes in the production of motor fuel and lubricants which are of importance to national defense" attended
by Farben representatives. A report of that meeting said:

"Since the production of this oil is expensive, there has so far been no interest in this process, particularly since the special quality advantages cannot be seen from the registrations. By keeping the work being done towards the large scale exploitation secret it is possible to ensure that Germany has advantage."

"With regard to iso-octane too it is desirable that the establishment of installations in Germany is kept secret. On the part of I.G. Farbenindustrie it was mentioned in this connection that as soon certain products are ready for delivery in larger quantities (as will be the case with ethylene-lubricant as well with iso-octane in the near future) the existence of production plants can hardly be kept secret. If it does become known it would however lead to unpleasant international relations in view of I.G. Farbenindustrie's obligations to exchange know-how.

"The state of knowledge for the production of aviation gasoline, iso-octane and ethylene-lubricant on 1 July 1937 is being fixed in cooperation between the Reich Air Ministry and I.G. Farbenindustrie.

"I.G. will make no additional statements about the quality of the oils (aviation oil quality) which can be reached with regard to the ethylene-lubricant patent, which has actually been released, in order to justify its capacity for being patented.

"In consideration of its exchange of know-how agreements I.G. Farbenindustrie is permitted to inform its partners in the agreements in a cautious way shortly before the start of large-scale production that it intends to start a certain production of iso-octane and ethylene-lubricant. The impression is however to be conveyed that this is a matter of large-scale experiments. Under no circumstances may statements on capacity be made."

Following a conference with General Thomas, defendant Buecher submitted a memorandum agreed upon with General Thomas dated 25 January 1940.

In it, defendant Buecher said:

"This exchange of know-how which is still being handled in the usual way by the neutral countries abroad even now and which is transmitted to us via Holland and Italy firstly gives us an insight into the development work and production plans of the companies and/or their countries and at the same time informs us about the stand of technical development with regard to oil. In these know-how reports drawings and technical details about the most varied subjects, are passed to us. The contractual obligations mean that we too must make our experiences with regard to oil available abroad within the framework of the agreement. Up to now we have carried this exchange of know-how out in such a way that from our side we have only sent reports which seemed unobjectionable to us after consultation with the OWD and Reich Ministry of Economy and which contained only such technical data as concerned facts which are known or out-of-date according to the latest stand. In this way we have managed the handling of the agreements so that in general the German economy remained at an advantage."
"In order to maintain the contact with neutral countries abroad and/or the oil companies located there, we consider it expedient to continue this exchange of know-how in the form drawn up, retaining on our part the guiding principle that under no circumstances must any know-how of military or military-political importance get abroad in this way. In all cases of doubt contact with the Reich offices concerned must therefore be made ..."

The record shows that this memorandum was initialled by General Thomas and signed by Goering under notation reading: "Director Dr. Dautsflisch bear responsibility that nothing of importance to military or defense policy get out."

And in a letter dated 6 February 1940 from General Thomas to "Dr. Dautsflisch, Vorstand member of I.G. Farbenindustrie A.G.," it said:

"It is however necessary that you yourself in your capacity as head of the Economic Group Motor Fuel Industry as well as Vorstand member of I.G. Farbenindustrie A.G. take over the responsibility for seeing that matters be kept secret in the interests of national defense do not become known abroad."

On 15 January 1942, defendant tor Ilcor wrote a letter to defendant Krauch giving "data on action taken by us in the United States regarding Buna." Tor Ilcor said:

"In conclusion I should like to state that except for the license agreement concluded with our ally, Italy, processes and experiences on the production of Butadiene and the manufacture of Buna S and U, were never made available abroad."

In that letter tor Ilcor enclosed several memoranda of conferences had with the German authorities before the outbreak of war. In a memorandum concerning a conference had at the Reich Economics Ministry on 10 March 1938, attended by defendant tor Ilcor, it is said:

"...Germany's going in for large scale manufacture of Buna S, the realization abroad, especially in the U.S.A., that Buna S is a suitable tire rubber and, finally, the possibility - as it presented itself to the U.S.A. - to produce Buna S at prices approximately equal to the average price of natural rubber created an extraordinarily great interest in America for the whole problem. Conferences which up to now had the sole object of easing the minds of American interested parties and to prevent as much as possible an initiative on their own part within the frame of butadiene rubber were held with Standard, Goodrich, and Goodyear. We are under the impression that one cannot stem things in the U.S.A. for much longer without taking the risk of being faced all of a sudden by an unpleasant situation and last we be unable to reap the full value of our work and our rights."
"The patent situation in the U.S.A. was described in brief outline. Our patents covering the agent for mixed polymerisation (Buna S and N) are very strong and to not expire until 1950 and 1951, respectively. We have, furthermore, the tire patents for Butadiene rubber. Therefore, as long as American experiments — which as we know very well are being carefully carried out by such important firms as Goodyear and Dow — remain within the above mentioned patent sphere there is no danger.

***

"The American Patent law does not make licensing mandatory. It would nevertheless be conceivable that because of the extraordinarily great importance of the rubber problem for the U.S.A. and because tendencies fostering military power are very strong there too, considering the decrease in unemployment, etc., a bill for a corresponding law might be submitted to Washington. We, therefore, treat the license requests of the American firms in a dilatory way so as not to push them into taking unpleasant measures.

***

"Pursuant to the above the possibility was discussed in detail, through strict reserve on our part to put the breaks on for developments in U.S.A., especially with a view to preserving secrecy in regard to other countries."

It appears from the evidence that Farben, especially the defendant for Ileer, did go through the notion of seeking permission from the German authorities to divulge the Buna process. It was in a dilatory manner, however, not in keeping with the professed relationship of good will and confidence between Farben and its foreign associates. In April 1938, defendant tor Ileer wrote Howard of the Standard Oil Company as follows:

"In accordance with our arrangements in Berlin I have meanwhile taken up negotiations with the competent authorities in order to obtain the necessary freedom of action in U.S.A. with regard to rubber-like products. As anticipated, these negotiations have proved to be rather difficult and the respective discussion are expected to take several months before the desired result is obtained. I will not fail to inform you about the result in due course."

On 20 April 1938, Howard wrote to tor Ileer urging speed and said:

"My view is that we cannot safely delay the definite steps looking toward the organization of our business in the United States with the cooperation of the people here who would be the strongest allies, beyond next Fall — and even to obtain this much delay may not be too easy."

In October 1938, the minutes of the Ministry of Economic showed that use of patented Buna processes and know-how abroad was permitted with certain restrictions including obtaining consent for passing it abroad "Should fundamental new knowledge with regard to Buna be obtained..." In a letter from Hinter, a Farben executive to the defendant von Knoop dated 28 September 1939, referring to a pending conversation with Howard of Standard Oil at the Hague, it was said: "Dr. tor Ileer thinks it is necessary to point out specifically that there will be no changes in experience with respect to Buna;..."
A commentary, dated 6 June 1944, forwarded by defendant von Karierer to several persons in Farben, including defendants Schmitz, Ambros, Bectofisch and Schneider, is particularly significant. It refers to an article which appeared in America in the "Petroleum Times", written by Professor Haslam, declaring "that the Americans received processes from us which were vitally important for the conduct of war." In the commentary it stated:

"In summary, it can thus be said concerning the production of aviation fuels, that we had to use methods which differed in principle from those of the Americans. The Americans have crude oil at their disposal and naturally rely on the products that are created in the processing of crude oil. In Germany, we start out on a coal basis and from there proceeded to utilize the hydrogenation of coal for the production of aviation fuel. As mentioned above, however, specialized information was not turned over to the Americans. Therefore, in contrast to Professor Haslam's assertions, hydrogenation proper was used in Germany, though not in America, for the production of aviation fuels. Beyond that it must be noted that particularly in the case of the production of aviation gasoline on an iso-octane basis, hardly anything was given to the Americans, while we gained a lot.

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"The conditions, in the Buna field are such that we never gave technical information to the Americans, nor did technical cooperation in the Buna field take place.

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"A further fact must be taken into account, which for obvious reasons did not appear in Haslam's article. As a consequence of our contracts with the Americans we received from them above and beyond the agreement many very valuable contributions for the synthesis and improvement of motor fuels and lubricating oils, which just now during the war are most useful to us, and we also received other advantages from them.

"Primarily, the following may be mentioned:

"(1) Above all, improvement of fuels through the addition of lead-tetraethyl and the manufacture of this product. It need not be especially mentioned that without lead-tetraethyl the present method of warfare would be unthinkable. The fact that since the beginning of the war we could produce lead-tetraethyl is entirely due to the circumstances that shortly before the Americans had presented to us with the production plants complete with experimental knowledge. Thus the difficult work of development (one need only recall the poisonous property of lead-tetraethyl, which caused many deaths in the US.) was spared us, since we could take up the manufacture of this product together with all the experience that the Americans had gathered over long years.

***

"(3) In the field of lubricating oils as well Germany, through the contract with America, learned of experiences that are extraordinarily important for present day warfare".
The defense seeks to characterize this evidence as "window dressing" deliberately planned to mislead the Nazi Government. In my opinion, it is an accurate appraisal of the evidence as to Farben's conduct with reference to its foreign associates in cartel agreements during the rearmament period and prior to the war with the United States to the extent that Farben, on the one hand, gave the appearance of adhering to the agreements with its associates, and on the other hand, cooperated with the German authorities in withholding information as to experience and know-how coming within those agreements; that Farben often went through the motions of seeking permission from the authorities to comply with the agreements but with such dilatory tactics that delay resulted to the great disadvantage of the other powers and with resulting advantage to Germany. The contemporaneous documents of Farben and the German governmental authorities in evidence reveal a record of conduct on the part of Farben characterized by duplicity and lack of that candor and frankness contemplated by the relationship with Farben's foreign associates. Such conduct must have been expressly designed to delay the rearmament of Germany's enemies in preparation to meet and resist any Nazi aggression and, to some degree, undoubtedly contributed to this result.

(g) Propaganda, Intelligence and Espionage Activities

The far-flung organization of Farben was an ideal vehicle for carrying Nazi propaganda throughout the world. Soon after the Nazi rise to power in 1933, officials of Farben took the initiative in launching an extensive program. Defendant Ilgner organized a Circle of Economy Leaders, which cooperated with the Propaganda Ministry. This organization undertook to see that "the situation in 'new Germany'" would appear in a more favorable light abroad. Defendant Gattineau said with reference to its activities:

"... It also was the task of the Circle on the Economy Leaders to prevent awkward actions of the Ministry of Propaganda and substitute for them more suitable ones. The Circle of Economy Leaders was well qualified for this because its members knew the situation abroad well; they had good connections abroad and were acquainted with the mentality of the respective countries. The development of events in Germany had greatly disturbed the expert policy and the representatives of industry were now wishing to counteract this unfavorable development by appropriate propaganda. One tried to shift the attention from political questions to cultural ones. To the Propaganda Ministry this development was very desirable because in that manner the connections with industry had abroad could be used for its purposes. Besides, it was an advantage to use people not inclined to be paid propagandists. This propaganda activity was financed not by the Propaganda Ministry but by the officials of the respective subdepartment chiefs. In that manner I handled Scandinavia and Dr. ex Ilgner..."
North America. Among other things also trips by foreign news-
papermen to Germany were financed. The negotiations with and the
payment to the propagandist Ivy Lee also occurred during that
period. Payments made for such purposes were accounted for by
Dr. Tjgar with the Central-Finanzverwaltung of I.G. and Schoenarz
Schulz was informed about them. Dr. Tjgar's Office was used
as the business office of the Circle of Economy Leaders. Other
propaganda organizations which had been established upon Tjgar's
initiative are the Association of Karl Schurz and the Mittelmeer-
akischen Wirtschaftstag. This activity of Dr. Tjgar's also was
an expression of his efforts to make himself useful to the new
man in power, thus to obtain a prominent position for himself.
He was in a position to do this because as head of the International
organization of I.G., he had an insight into all of I.G.'s affairs and
he thus could be of service to other people and authorities. . . .

Several of the defendants were appointed to positions in the propa-
ganda organizations. The appointment of defendants Hahn, von Schnitzler and
Tinem to the Publicity Board of the German Economy was announced at a
meeting held at the Propaganda Ministry on 30 October 1933 which was attended
by Nazi officials and prominent representatives of the party and industry.
The meeting was addressed by Funk, who had assumed the chairmanship
of the Board, and Goebbels who urged the participants to "go ahead in
the spirit of National Socialist vigor and conviction." In 1934 defendant
von Schnitzler was selected a member of the Aufsichtsrat of A.L., an adver-
tising agency set up under state and party supervision.

In carrying out the propaganda program, defendant Hahn sent a circular
letter to all of the Bayer representatives abroad describing the achieve-
ment of the Nazi regime since its rise to power and the "miracle of the birth
of the German nation"; in this circular appear the following statements:

"In view of the boycott propaganda abroad, which is still
noticeable, although it has lost considerably in intensity, we
are particularly desirous of describing to you in detail the
actual conditions as they prevail under the new National
Socialist government in Germany. We wish to express the hope
that this report will supply you with important data, enabling
you to continue to assist us in our struggle for the German
conception of law. We ask you expressly, in connection with your
collaborators and your personal, to make use of these data in
a manner which appears appropriate to you, to the end that all
concerners of our pharmaceutical business become familiar with
these general, economic and political conceptions."

It was by such means that Farben undertook to direct its agencies and per-
sonnel abroad to influence opinion favorably towards the Nazi regime and
thus help and support the furthering of the objectives of the Nazi program.
At a meeting of the Commercial Committee of Farben on 10 September 1937, attended by defendants Schmitz, von Schmitzler, Haefliger, Higner, Neum and Oster, the organization of Germans abroad (A.O.) was discussed. Minutes of that meeting state:

"It is generally agreed that under no circumstances should anybody be assigned to our agencies abroad, who is not a member of the German Labor Front and whose positive attitude towards the new order has not been established beyond any doubt. Gentlemen, who are sent abroad, should be made to realize that it is their special duty to represent National Socialist Germany. They are particularly reminded as soon as they arrive, they are to contact the local or regional group (of Germans abroad) respectively, and are expected to attend regularly at their meetings as well as at those of the Labor Front. The Sales Combines are also requested to see to it, that their agents are adequately supplied with National Socialist literature.

"Collaboration with the A.O. (Organization of Germans abroad) must become more organized....."

At a meeting of the Bayer Board of Directors held at Leverkusen on 16 February 1938, presided over by defendant Neum, he affirmed the favorable attitude. The minutes of the meeting state:

"The chairman points out our incontestable being in line with the National Socialist attitude in the association of the entire BAYER pharmaceutical and insecticides; beyond that, he requests the heads of the offices abroad to regard it as their self evident duty to collaborate in a fine and understanding manner with the functionaries of the Party, with the DAF (German Workers' Front), etc. Orders to that effect again are to be given to the leading German gentlemen so that there may be no misunderstanding in their execution."

Pursuant to such instructions, representatives of Farben abroad cooperated actively with the foreign organizations of the Nazi Party. Reports were made by those representatives to Farben of the various schemes and projects undertaken, which were approved and ratified.

During a trip to South America in 1936, defendant Higner was especially effective in developing a program of "Defense Against Fostering of Anti-German Sentiments in Latin America," as reported by a representative in a letter dated 27 January 1937. The program included the distribution of propaganda material through Latin America Chambers of Commerce, branches of German banks and other representatives of German economy. Other devices contemplated were the use of film, propaganda schools, and radio, the exchange of students, business men, scientists, and artists, all as a means of carrying on
"important propaganda work towards Germany." Farben gave financial support to schools and cultural institutes abroad as well as chambers of commerce promoting the propaganda program.

The activities of Farben with reference to affairs in Czechoslovakia in 1938 are particularly significant as revealed by the minutes of the Conference on Czechoslovakia held on 17 May 1938 at Unter den Linden 82. In the minutes of that meeting, it is said:

"Seeborn gave an introductory report; he stated that after the incorporation of Austria in the Reich, tension had increased in the Sudeten-German parts of the country and that in all sectors of the population the political and industrial organizations were being reconstructed according to German pattern and to the tenets of National Socialism.

"It seemed expedient to begin immediately and with the greatest possible speed, to employ Sudeten Germans for the purpose of training them with I.G., in order to build up reserves to be employed later in Czechoslovakia.

"The Information Office (Nachrichtenstelle) had for some time been endeavouring to publish articles of general and particular interest in Sudeten German newspapers and to this end was making use of the 'Wirtschafts- und Zeitungsadner Gmb.H.', a company sponsored by the German authorities. These articles were intended to serve as a preparation for a gradual financial strengthening of the Sudeten German newspapers by advertisements.

"Proposed action: The Information Office, in collaboration with the sales combines would specify the newspapers which were to be sponsored, inasmuch as they were suitable for advertising our marketable products. The papers were then to be supplied with articles by the Information Office and given advertisements for insertion in order to support them financially.

"Furthermore, those newspapers which had political importance and periodicals which published articles and reports with a general bias in favour of I.G., without actually giving publicity to our products, were to be supported by being given items for publication as regularly as possible."

A report of this conference was given to the members of the Commercial Committee at a meeting of that Committee on 24 May 1938 attended by defendants Schritz, von Schultzler, Hnofliger, Ilgener, Cattinace and Kugler, and at the same time the minutes of that conference were distributed to the members of the Commercial Committee. These minutes indicate a knowledge of possible Nazi intentions with reference to Czechoslovakia and show that Farben used its financial power in an effort to influence public opinion in that country in complete harmony with the Nazi sponsored agitation."
Thus it appears that Farben, through the energetic use of its foreign representatives and contacts and the power of its financial backing, was an active instrument in furthering the Nazi propaganda program in a wide variety of directions and willingly cooperated in various forms of Nazi intrigue.

Of even greater importance to the Nazi program was the energetic initiative of Farben through the use of its foreign connections in intelligence and espionage activities. Farben worked closely with the intelligence of the Wehrmacht, called the Abwehr, and financed institutions abroad in the service of that agency. Both before and during the war, Farben was zealous in its efforts to obtain and furnish the Wehrmacht militarily important information. The Central Finance Administration (ZEPT), commonly called "Berlin M7", had been organized by the defendant Ilgner in 1927 and was gradually enlarged to include the Economic Research Department (WOIT), the Political Economic Policy Department (WIPO) headed by defendant Gattinou, and the Bureau of the Commercial Committee (BdKA). This organization, through its incomparable sources of information all over the world, collected and compiled detailed information in various countries concerning the most important branches of industry and particular enterprises, including the purposes of the undertaking, the financial structure, products, capacity and location. The material thus assembled probably surpassed that of any other institution in Germany in extent and quality and was made available to several agencies of the government regularly. Often WOIT, at the request of the Military Economic and Armament Staff, made thorough investigations abroad. Witness Dannert said:

"...As an example of this, I would mention the investigations that were made in the autumn of 1939 concerning the Toluol capacities in England and France and the study at the beginning of 1940 on the effect of the stoppage of fodder imports on Danish agriculture. We were also asked at this time for pictures and maps of the industrial plant in enemy countries. As we did not possess these, we had to limit ourselves to making photostatic copies from the rarely published drawings and photos in the different technical publications and placing these at the disposal of the Military-Economic and Armament Staff. I remember that once during the war we were asked to explain, with the aid of a color photograph, the lay-out of the Clifton Magnesium Works in England, in preparation for a bombing attack. We passed on the advice of a gentleman from Bitterfeld, who was familiar with the works lay-out."
Concerning Farben as a source of information, General Stahlermann said:

"Another of our sources of information was the Economics Department of the I.G. Farbenindustrie A.G. (Wirtschaftliche Abteilung)... The Economics Department of the IG co-operated with us by putting their work, such as reports on countries, detailed reports on raw materials, developmental prospects, at our disposal. Since the Economics Department of the IG had an excellent and highly qualified staff of collaborators we also addressed to this office inquiries on subjects above which we assumed they were informed. (Inquiries during the war about America's nitrogen production, etc.)"

The furnishing of information by Farben to the Wehrmacht during the months preceding the premeditated attack on Poland is significant.

In the weekly report to the Office of Military Economy appear these items:

"6 - 7 March: Discussion with Dr. Fernau of the I.G. Farben, on the English and French oil supplies.

"16 April: Inception of I.G. Farben study 'Rumanian Mineral Oil' and 'Greater Germany and the Economic Spheres of the Bohemia-Moravia protectorate and of Czechoslovakia'."

"11 June: Discussion with Dr. Fernau of the I.G. Farben. Submission of the essay on Cyprus and discussion on the utilization and exploitation of the I.G. Farben records and library. In accordance with Fernau's statement, the records and library are at the disposal of the I.G. at any time.

"21 August: Discussion with the Leader of the Economics Department of the I.G. Farbenindustrie Aktiengesellschaft, Doctor Rothinger, as well as Doctors John and Fernau of the I.G., on the closer cooperation envisaged.

"The I.G. made all their archives and printed material available for exploitation and furthermore declared themselves prepared to answer questions put to them, which must be kept as brief and concise as possible. Written questions are to be sent through the Office of Military Economy Group VIII to the office controlling the scope of the I.G.'s activities.

"26 August: Discussion with Dr. von der Heydta, Commissioner for Abrohr of the I.G. Farbenindustrie Aktiengesellschaft, Berlin, on the sphere of activities of Dr. Krueger, Betriebsfuehrer of the I.G. Farbenindustrie Aktiengesellschaft Berlin, who came to the W3eb for the reinforcement of mobilization."
"25 August...Discussion at the Office of Military Economy, Group VIII, Captain Doso, Dr. Holzbauer, with Dr. Roithinger, Dr. John, Dr. Fornau's suggestion of using the Economics Department, together with archives, of the I.G. Farbenindustrie for the 7 Stb's purposes was accepted by Captain Doso. Request for brief description of Poland's situation with regard to raw material stocks and a description of the Reich's increased security against blockade through the Berlin-Moscow non-aggression pact. (Description are promised)."

From the minutes of the meeting of the Commercial Committee of Farben on 12 November 1940, attended by defendants Schmits, von Schnitzler, Haofligor, von der Heydo, Ilgnor, von Klerion, Kuglor, Mann, ter Hoe and Oster, it appears that von Schnitzler made a report of the "work recently prepared by the National Economics Department for various government and military offices." The minutes state:

"...During the discussion following this the Commercial Committee repeated its wish that the National Economics Department should prepare this work in close cooperation with the sales combines and other I.G. Offices concerned."

On 2 March 1940, WVI made a report to the Military Economy Office setting out technological information concerning explosives and chemical warfare agents, including an estimate of production facilities of the United States.

The American company, Chonmyco, Inc., a company controlled by Farben personnel, was used extensively as a source of valuable information. The United States Department of Justice had occasion to investigate the activities of the Chommyco Company during the war and made an official report of its findings. In that report, it is said:

"The simplicity, efficiency and totality of German methods of gathering economic intelligence data are exemplified by Chommyco, Inc., the American economic intelligence arm of I.G. Farbenindustrie. Chommyco is an excellent example of the uses to which a country with a war economy may put an ordinary commercial enterprise..."

There can be no doubt that Farben used its world-wide connections as a means of obtaining information of military value and furnished such information to the Wehrmacht to an ever-increasing extent. Farben in that regard gave enormous help to the preparation for and the waging of aggressive wars conducted by Germany.
In July or August of 1938 officials of Farben took up for serious consideration the matter of safeguarding their assets abroad in the event of war. According to Witness Kuepper, who was a member of the legal staff of Farben, that was "when the dark clouds called Sudeten crisis already appeared over the horizon." Several significant events had already occurred by that time which were consistent with the publicly proclaimed program of Hitler revealing what the HIT characterized as "the unmistakable attitude of aggression."

The Treaty of Versailles had been repudiated by the Nazi government; the building of a military air force had been announced by Goering over three years before; for more than three years an army had been in the making since the enactment of compulsory military service in 1935; in defiance of the Versailles Treaty, the demilitarized zone of the Rhineland was entered by German troops in 1936; as was stated by the HIT, "At daybreak on 12 March 1938 German troops marched into Austria." Witness Kuepper said:

"There was no question of an aggressive war; there was a general feeling of the darkening of the general political situation, and the general talk not only was in Farben, but in the whole German public about the possibility of war; the kind of war, that was not discussed."

The talk of war by the German public at that time was natural in view of the public events during the recent years as above reviewed. Of course, it was not specifically discussed whether it was to be an aggressive war or a defensive war. The "possibility of war" was present in view of repeated aggressive acts committed by the Nazi government. Reasonable men were only being logical when they realized the prospect of war as a consequence of the policy being followed and began prudently to do what they could to protect their foreign assets in the event of war. Such a course of conduct was in keeping with the far-sighted intelligence always exhibited by Farben officials in managing and directing the Farben enterprise. Of course such conduct was not in itself the commission of the Crime against Peace, but it is significant as indicating the seriousness of the situation in the state of mind of officials of Farben when they undertook to map out the policy for the protection of the concern's foreign holdings. It shows a realistic appraisal of the foreign policy of Germany and an understanding of the imminent possibility of war.

Within two days after German troops had occupied Bohemia and Moravia, contrary to the agreements made at Munich in September 1938, the Legal Committee of
Farben, presided over by defendant von Knieriem, met in Berlin on 17 March 1939 to consider the problem of protecting Farben assets in foreign countries "in the event of war." The minutes of that meeting show that this Legal Committee made specific recommendations as to legal steps necessary to camouflage Farben assets abroad to prevent seizure in the event of war. In the minutes, it is said:

... If the shares or similar interests are actually held by a neutral who resides in a neutral country, even economic warfare measures are ineffective; even an option in favor of I.G. will remain unaffected. A sole exception arises if the neutral is placed on the 'blacklist,' since then the liquidation of the shares or similar interest may also be ordered. The English during the war made very sparing use of the authority to liquidate assets in the United Kingdom of a 'blacklisted' neutral inasmuch as such procedure invariably resulted in controversies with the government of the neutral involved, controversies which frequently were out of all proportion to the results obtained by such liquidation.

"This survey shows that the risk of seizure of the sales organizations in the event of war is minimized if the holders of shares or similar interests are neutrals residing in neutral countries. Such a distribution of holdings of shares or other interests has the further advantage of forestalling any conflicts troubling the conscience of an enemy national who will inevitably be caught between his patriotic feelings and his loyalty to I.G. A further advantage is that the neutral, in case of war, generally retains his freedom of movement, while enemy nationals are frequently called into the service of their country, in various capacities, and therefore can no longer take care of business matters.

... However, as far as possible with due regard to the other interests which call for our consideration, neutral influences should be strengthened in our agencies abroad by the transfer of shares or similar interests to neutral holders. If this is not possible, it seems advisable to transfer the shares or similar interests to parties who are nationals of the particular country and to provide for options on these shares or similar interests not in favor of I.G. directly but running to some neutral party with an ultimate option in I.G.'s favor."

"The adoption of these measures would offer protection against seizure in the event of war, although this protection may not be a complete one."

This indicates careful and thorough consideration by Farben of the whole problem of protecting foreign holdings in the event of war so as to reduce the hazard of loss to a minimum.
A summary of the minutes of that meeting were, on 8 June 1939, sent to several executives of Farben, including defendants von Schmitzler, ter Keer and Kugler. In the evidence is a memorandum dated 22 July 1939, entitled "Safeguarding measures for the case of war", which refers specifically to Farben's holdings in Belgium, France, Egypt, England, United States of America, Canada, Australia and New Zealand. This was a memorandum of the Legal Department Dyestuffs.

During the summer months in 1939, preceding the invasion of Poland by Germany, Farben carried on an extensive correspondence with the Reich Ministry of Economics concerning the method of camouflage of foreign assets. In a letter dated 24 July 1939 written by Farben to the Reich Ministry of Economics appear these significant statements:

..."The continuous watch which we have kept on the legal structure of our sales system abroad, and the necessity, - in view of political tensions - of paying special attention to the protection of our interests in case of a conflict with other powers, have convinced us that even the structure did no longer offer the exposed to danger, among them particularly the British Empire.

..."For these reasons we have come to the conclusion that real protection of our foreign sales companies against the danger of sequestration in wartime can only be obtained by our renouncing all legal ties of a direct or indirect nature between the stockholders and ourselves, - which at present give us the right of access to the stocks of our sales companies - and replacing those legal relations, by transferring the right of access to those assets to such neutral agencies as by virtue of their personal connections with us of many years standing, in some cases even covering decades, will give us the absolute guarantee that in spite of their complete independence and neutrality they will never dispose of these assets otherwise than in a manner entirely in accordance with our interests. This guarantee continues to exist even in the case of unforeseen technical or political complications rendering a discussion with us temporarily impossible, a discussion which in view of our friendly relations, would normally be a matter of course. The experiences we made during the war, have made it much easier for us to decide on this step. As an example for the fact that the only effective protection of our interests lies in the personal trustworthiness of our business friends abroad and not in legal obligations whatever, we shall only quote the following incident:

"After the entry of the United States into the World War, all the assets of our constituent companies in the United States were sequestered and were, in the majority of cases, sold to competitors by the American Authorities; only this action provided the bases for the development of the American chemical industry of today. This was the situation when the representative of the Hoechster Farbwerke, General M.A.Metz, while fully observing his duties as an American citizen, staked his entire private property, - without being asked to and without any legal obligation - in order to buy the assets, in particular the patents belonging to the Hoechster Farbwerke, from the American sequestrator, and after the end of the war, in return
for his expenses, placed them again at the disposal of our constituent Company. Personality alone was the decisive factor in that situation, when, according to English and American laws of war, all contractual relations with the enemy were automatically severed by entry into the war."

In a communication dated 26 September 1940 to the Reich Ministry of Economics, Farben reported:

"...Only during recent years since about 1937, when the danger of a new conflict became more and more apparent, did we take pains to improve our camouflage measures, especially in the endangered countries in such a way that they should prove adequate even in the case of an armed conflict and at least prevent immediate seizure."

That letter was written by the Central Finance Department of Farben in Berlin following discussions to improve the system of camouflaging various sales companies of Farben in Latin America, concerning which defendants von Schnitzler and Ilgner were generally informed.

While there were other considerations prompting camouflage of holdings in foreign countries, the evidence clearly shows that a controlling reason, particularly in the years 1938 and 1939, was the prospect of war. Thus, in a memorandum dated 2 October 1942, Kuepper of the Farben Legal Staff, who testified personally before this Tribunal, said:

"After the victorious end of the war a long lasting political appeasement can be expected. But distinct possibilities cannot be a reason for camouflage any longer in view of the reasons against it, especially of political nature."

Pursuant to the policy of camouflaging its assets abroad, Farben resorted to sham transactions to accomplish such purpose. An excellent example of the technique employed is set forth in the opinions filed in Standard Oil Co. v. Markham, 61 F. Supp. 656 (District Court, S.D. New York), and Standard Oil Company v. Clark, 163 F. (2d) 917 (Circuit Court of Appeals, Second Circuit, September 22, 1947) wherein those important Federal Courts of the United States held that the transactions reached at the Hague Conference in September of 1939, between representatives of Farben and representatives of the Standard Oil (referred to as the Horsey group) were "sham transactions designed to create an appearance of Jersey ownership of property interests which, nevertheless, continued to be regarded by the parties as I.G. owned." The United States courts referred to specifically found:

"The parties intended that after the completion of the war and the resulting disappearance of the danger of United States Government controls the properties would be formally returned to I.G. and the prewar relationship resumed."
The evidence discussed in the Tribunal’s judgment in connection with Count Two shows in detail the activities of Farben in the exploitation and spoliation of the chemical industry of occupied countries. Farben’s New Order for the Chemical industry is indicative of the initiative shown by Farben in planning to acquire control of the key industries as additional territory came under the Nazi yoke.

In July 1938, the Political Economy Department of Farben (VGWI) completed a very full report on Aussiger-Verein of Bohemia. On 21 September 1938 the office of the Commercial Committee of Farben wrote to all Vorstand members of Farben referring to the discussion at the Vorstand meeting on 16 September 1938 in Frankfurt and enclosed a preliminary statement on "location of the chemical industry in Czechoslovakia," and called attention to the report completed in July "which may be obtained from the Political Economics Department on direct request." On 23 September 1938, defendant Kuehne wrote to defendant ter Meer and defendant von Schnitzler saying:

"I learned from our telephone conversation this morning the pleasant news that you have succeeded in making the competent authorities appreciate our interest in Aussig and that you have already suggested Commissaries to the authorities — viz. Dr. Wurster and Kugler."

In a letter dated 29 September 1938, defendant von Schnitzler wrote defendants ter Meer, Kuehne, Ilgner, and Wurster, saying:

"You are informed about the general principles of the discussion which I have had at the end of last week with the Ministry of Economics; with Mr. KEPPLER, Secretary of State, and with the German Economical Board of the Sudeten-area, as to the situation of the Aussig-Union. The negotiations have been successful insofar as all parties acknowledged that as soon as the German Sudetenland comes under German jurisdiction all the works situated in this zone and belonging to the Aussig-Union, irrespective of the future settlement of accounts with the head office in Prague, must be managed by trustees (commissioners) for account of whom it may concern. I pointed out that, in the first place the works Aussig and Falkonau are involved, and that, at least, the firm Aussig, but suitably also Falkonau, should be run exclusively by I.G., and that therefore I.G. already now, would lay claim to the acquisition of both works. Before coming to an understanding in regard to ownership, it would be necessary to maintain the technical and commercial activity by export commissioners, and these commissioners can only be furnished by I.G. In accordance with TER MEER I proposed Dr. Carl WEBSTER for the technical part by both the Ministry of Economics and the Fer.
The Munich Pact was signed 29 September 1938, and Germany occupied the Sudetenland pursuant to that pact. Farben's sympathy with the government's policy at this time is evidenced by a telegram from defendant Schmitz to Hitler reading:

"Profoundly impressed by the return of Sudeten-Germany to the Reich which you, my Führer, have achieved, the IG Farbenindustrie A.G. puts an amount of half a million Reichsmark at your disposal for use in the Sudeten-German territory."

There is in evidence a memorandum of the "Management Division Farben" entitled "Preparations for the rehashing of the economic relations in postwar Europe," dated 19 June 1940. In that memorandum it is said:

"...The Examining Board of the chemical industry was commissioned by Mr. Schlotterer to submit to him as soon as possible a survey of the chemical industry in the following countries: France, Switzerland, England, Holland, Belgium, Denmark, Norway....

"If Farben had any special suggestions to make with regard to the lines on which the manufacture of dye-stuffs was to be organized in future in the countries in question, it would be useful if they would bring them forward on this occasion. (It was stated in conference that Herr U. remarked during the conference with Herr E. that European dye-stuff production after the war would probably be under the management of Farben)."

On 24 June 1940, defendant von Schnitzler wrote to several officials of Farben, including defendants ter Meer and von Kelerius, especially asking them to attend the meeting of the Commercial Committee to be held on 28 and 29 June in Frankfurt on Main, in which he said:

"...I include a copy of the invitation for these gentlemen who, although not members of the Commercial Committee are herewith cordially invited to be also present on 28 June. The main topic of our conference, described under No. 1 of the agenda as 'Report on Economic Policy' ('wirtschaftspolitischer Bericht) is the discussion of the problems of economic policy that were made pertinent through the speedy development of the events of war in the west. A specific inquiry has been received from the Reich government requesting that in the shortest possible time a program be developed outlining a system to be established by, and based on, the impending peace treaty, and covering the entire European interests in the field of chemistry."

The minutes of that meeting, held on 28 and 29 June 1940 at Frankfurt, show that of the defendants in this case the following were present: von Schnitzler, Gattinean, Ilgenr, von Kelerius, Kugler, Mann,
ter Meer and Oster. The minutes further show that a comprehensive and broad discussion was had concerning the future of the chemical industry in many countries and that it was determined that all offices of the I.G. and Konzern companies are to be asked for suggestions on all matters pertaining to economy reorganization of the following countries, to-wit: (a) France, (b) Belgium and Luxembourg, (c) Holland, (d) Norway, (e) Denmark, (f) Poland, (g) the Protectorate, (h) England and the Empire.

A memorandum dated 20 July 1940 was transmitted by order of defendant von Kromel concerning: "1. Suggestions for the Peace Treaty as regards the protection of industrial rights" and, "2. Position of the German Reich Patent in a European economic sphere under German control." Under the second item the memorandum said:

"The position of the German Reich Patent in a European economic sphere under German control.

"The peace treaty will cause far-reaching changes in the political and economic structure of large parts of Europe. One can perhaps assume that under German leadership a Greater European Area (Europaischer Grossraum) will be established, which besides Greater Germany will include a number of additional states each retaining its own government. This Greater European area will represent an economic unit and possibly will later have a uniform system of customs duties and currency. One could not possibly retain this diversity of laws for the protection of industrial rights in such an economically unified area ...

"The most complete solution which could be regarded as ideal would be to create one uniform patent for the entire European area under German control by regulating the formal and material patent right by a single law, the development of which would be reserved to the German legislator, and the Reich Patent Office would remain in existence as the only patent authority.

"1) Of course the idea is to extend the German patent over the entire area ...

"2) ...In order to ensure uniformity of decision, only the Reich Supreme Court should act as the court authorized to handle appeals with respect to legal issues; suits for multiplication and perhaps, following the Austrian example, also problems concerning dependency, should be judged only by the Reich Patent Office and by the Reich Supreme Court."

On 3 August 1940, Farben transmitted to the Reich Economic Ministry its "New Order Plans," in a letter signed by defendant von Schnitzler. It is a comprehensive report dealing generally with "the situation of the world economic forces which may be expected in the new order of the international chemical market," in which it was said:

"...This major continental sphere will, upon conclusion of the war, have the task of organizing the exchange of
goods with other major spheres and of competing with the productive forces of other major spheres in competitive markets — a task which includes more particularly the recovery and securing of world respect of the German chemical industry...

"The part which is arranged according to countries, includes primarily those countries with which negotiations concerning a fundamental new order may, in keeping with the military and political developments, be expected within a reasonable period of time under the armistice or peace terms, to wit: (a) France, (b) Holland, (c) Belgium/Luxembourg, (d) Norway, (e) Denmark, (f) England and Empire."

The same report contains a more detailed discussion about "the position of I.G. Farbenindustrie concerning the question resulting from the Franco-German relationship in the chemical field in regard to production and sales." In the course of the discussion of the New Order with reference to France is the following significant language:

"...It will, however, appear all the more justifiable in planning a major European spherical economy, again to reserve a leading position for German chemical industry commensurate with its technical economic, and scientific rank. The decisive factor, however, in all planning relative to this European sphere will be the necessity of securing determined and effective leadership in the discussions which must necessarily be conducted with the other major spherical economies outside of Europe, the contours of which are already distinctly drawn at this time.

"In order to guarantee that the chemical industry of Greater Germany and the European Continent can assert itself in such discussions, it is urgently required clearly to appreciate the forces which, in the world market, will be of decisive importance after the war.

"...As a matter of basic principle, therefore, we are of the opinion that the French chemical industry should retain its own existence in the coming new order, but that the artificial barriers which have been erected against German imports by means of excessive import duties, quotas and the like, should be removed. It will likewise be necessary to base ourselves on the premise that, in general, exports of the French chemical industry should be maintained only by way of exception and insofar as they had already formally been established, i.e. prior to the beginning of the world economic crises, and that French production should consequently be restricted to the French domestic market.

The preceding survey on the development and situation of the individual branches of the French chemical industry plainly shows that the chief obstacle blocking German interests in the French market was to be found in the field of commercial policy. If, therefore, participation in the French market — the remaining colonies, protectorates and possible mandated territories included — corresponding to the importance of the German chemical industry is to be built up and maintained, then this aim can be
achieved only by a fundamental change in the forms and media of French commercial policy in favor of German imports.

"III. CONCRETE PROPOSALS WITH REGARD TO CERTAIN FIELDS OF PRODUCTION"

"1. DYES. - In order to achieve a New Order as planned and to compensate in part for damages suffered in and because of France, the best solution seems to be to bring about such regulation of French production and its marketing for all time to come by the participation of the German dyestuffs industry in the French dyestuffs industry, as to prevent further encroachment on German export interests. To this end concrete proposals could be made as for example, I.G. might be allowed to acquire 50% of the capital of the French dyestuffs industry from the Reich.

"(a) The German-French dyestuffs company or companies only shall be permitted to establish in France new plants for the production of dyestuffs (including lac dyes) or their intermediate products, or introduce new products into the plants already existing or to expand the latter. In addition the French Government is to issue a decree prohibiting the establishing of plants for the manufacture of dyestuffs and intermediate products.

"(b) As a general rule the output of the German-French company shall be intended for the French domestic and colonial markets only.

"...we have written to the Reich Ministry of Economics under date of July 13, 1940, that we have placed a trustee for these companies at its disposal.

"(b) Enforcement of a French quota and licensing system in favor of Germany which will have as its purposes that French demands for imports be supplied by Germany only.

"The granting of preference tariffs to Germany is not only a means of compensating the German chemical industry for damages suffered in consequence of the Versailles Treaty and of the trade policy based upon it; it is rather a necessary political instrument to be used in relation with non-European countries which, through a depreciation of their money and through other measures might be able to disturb the commercial agreements to be concluded with France. It must therefore be stressed particularly that the basic tariffs between France and other countries can be lowered only with German approval.

"LICENSES FOR THE CONSTRUCTION OF NEW PLANTS AND FOR THE EXPANSION OF EXISTING FACILITIES are imperative in regard to products which are important to the armament industry. We hope that the requiring of licenses for the production of these articles will be supplemented by rigid control of the production itself.
The cooperation between German and French industry, which is the necessary basis for a sound and planned economy, can best be achieved - while continuing already existing agreements - by the creation of LONG-TERM INTERNATIONAL SYNDICATE AGREEMENTS, which would have to be preceded by the creation of French national syndicates. In contrast to previous arrangements between the German and French chemical industries, these syndicates should be under a unified and strong leadership; which because of the greater importance of the German chemical industry should be in German hands and should have its administration headquarters in Germany. The export of French chemicals would be handled exclusively by these syndicates, except for territories, to which the French industry may freely export the products in question or except in other cases to be defined precisely. The French chemical industry, limited now to supplying the domestic markets, may be asked to make compensations within the framework of the syndicate for possible export deficits.

In a letter to the members of the Commercial Committee dated 22 October 1940, defendant von Schnitzler with reference to the attitude of German officials towards Farben's suggested plans for the "New Order" said:

"...It is evident that our program for France was received very favorably by the official agencies. ...It is obvious that a similar program is desired for England before the end of the hostilities with her,..."

In August 1940, there followed detailed reports and recommendations for the "New Order" for Holland, Denmark and Belgium in the chemical field, following generally the pattern set out for the "New Order" of France, all in keeping with Germany's contemplated Leadership and domination by Farben of the chemical field in Europe.

Thus we see unfolded Farben's carefully conceived plans to reap in full the industrial fruits of Hitler's policy of aggression. These plans for Farben and German "leadership" closely paralleled the plans of aggression and domination of the Nazi government in the political and military fields. Germany was to dominate Europe, and eventually the world, financially, politically and economically, and Farben was to participate in the spoils on a permanent basis when peace should be established.

In summary, facts in the record abundantly support the assertions made by the prosecution that Farben and these defendants, (Members of the Vorstand) acting through the corporate instrumentality, furnished Hitler with substantial financial support which aided him in seizing power and contributed to keeping him in power; that they worked in close cooperation with the Wehrmacht in organizing and preparing mobilization plans for
the eventuality of war; that they participated in the economic mobilization of Germany for war including the performance of a major role in the Four Year Plan; that they carried out activities indispensable to creating and equipping the Nazi war machine; that they participated in the stockpiling of critical war materials; that they engaged in vital propaganda, intelligence and espionage activities; that they used their business connections and cartels to strengthen Germany and to weaken the war potential of other countries; that they camouflaged and utilized assets abroad for war purposes; that they planned to take over the chemical industry of Europe and participated in plunder and spoliation of occupied countries; and, that they participated in the utilization of slave labor on a vast scale to strengthen the German war machine. The ultimate conclusions reached in this opinion make it unnecessary to discuss in further detail the varying degrees of individual connection and responsibility for the particular acts of Farben with which the defendants who were members of the Vorstand were more particularly identified.

From the foregoing resume of the evidence, it can be said that I.G. Farben, in its substantial achievements constituting participation in the rearmament of Germany and in a variety of related activities, became integrated into the Nazi regime and made enormous contributions to the German war effort. The record bears abundant proof of the enthusiasm with which Farben undertook its portion of the task which was to make Germany into an armed camp exceeding the strength of all its neighbors. Despite the numerous decrees and regulations reflecting the regimentation of the economy now relied upon as a defense, it is clear that Farben continued to enjoy much freedom of action and initiative in its spheres of responsibility. In the economic structure of the Nazi regime, Farben's position was one of top leadership. The record bears out the degree to which its activities became inextricably intertwined with activities of the political and military leadership. Farben collaborated in the economic regimentation without reserve. It is equally clear that in return it expected the support of, and rewards from, the regime. These circumstances tend to refute the defense of duress and governmental coercion impliedly accepted as a defense in the
judgment of the Tribunal. This defense argument made insistently at the
trial is at variance with the true facts as revealed by overwhelming
evidence showing sustained and continued initiative by Farben in the
armament field, and is further at variance with numerous instances of
Farben's ability to influence the course of events where such action
was deemed to be in the interest either of Farben or of the government
program as a whole.

The irresponsible character of the Nazi regime, its constant
emphasis upon violence, and its oppressive policies as the regime
gained in strength, did not serve to deter the top leadership of Farben
in supporting the regime, and these factors indicate how reprehensible
was the course of action in which Farben, through the acts of these
principal defendants, was engaged. Such action, however, is not crimi-
nal as constituting the Crime against Peace unless it can be said to have
been in violation of international law as recognized in Control Council
Law No. 10, the basic legal provision from which this Tribunal draws its
jurisdiction.
Article II of Control Council, Law No. 10, in pertinent part, reads, as follows:

"1. Each of the following acts is recognized as a crime:

(a) Crimes against Peace. Initiation of invasions of other countries and wars of aggression in violation of international laws and treaties, including but not limited to planning, preparation, initiation or waging a war of aggression, or a war of violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing."

This provision of the Control Council Law, like the Charter of the International Military Tribunal, is declaratory of pre-existing international law: It is not ex post facto legislation but reflects a further recognition of the development of an international customary law to which aggressive war has come to be regarded as illegal. Participation in the acts covered in the quoted law constitutes a crime. This is the plain meaning of the London Agreement, of the Charter and the judgment of the IMT. Control Council Law No. 10, like the Charter of the IMT, recognizes that an individual may be held criminally responsible for the commission of Crimes against Peace. As a necessary corollary no distinction is to be drawn between a private citizen and public officials such as the political, diplomatic or military leaders of the State. Criminal responsibility is personal and individual under this conception.

Paragraph 2 of Article II of Control Council Law No. 10 provides:

"2. Any person without regard to nationality or the capacity in which he acted, is deemed to have committed a crime as defined in paragraph 1 of this Article if he was (a) a principal or (b) was an accessory to the commission of any such crime or ordered or abetted the same or (c) took a consenting part therein, or (d) was connected with plans or enterprises involving its commission or (e) was a member of any organization or group connected with the commission of any such crime or (f) with reference to paragraph 1 (c), if he held a high political, civil or military (including General Staff) position in Germany or in one of its Allies, cobelligerents or satellites or held high position in the financial, industrial or economic life in any such country."

Literally construed, Control Council Law No. 10, paragraph 2 (f), which is applicable only to Crimes against Peace, might be held to mean that the holders of high political, civil or military positions in Germany, or holders of high positions in the financial or economic life of Germany, are deemed, ipso facto, to have committed Crimes against Peace. The prosecution
in this case disclaims any such literal construction and recognizes that
criminal guilt does not attach automatically to all holders of high positions.
No such literal interpretation could be permitted. Paragraph 2(f) merely
requires that the fact that a person held such a high position to be taken
into consideration with all of the other evidence in determining the extent
of individual knowledge and participation in Crimes Against Peace. The
 provision does, however, serve to refute the contention that private business-
man or industrialists are excluded from the possibility of complicity in
"Crimes against Peace" as a matter of law. Paragraph 2(f) does not shift
the burden of proof which remains at all times with the prosecution. Neither
does it change the presumption of innocence. It merely emphasizes an evident-
ary fact to be weighed along with the sum total of the evidence.

Article X of Military Government Ordinance No. 7, under which this
Tribunal is established, provides:

"The determination of the International Military Tribunal
in the judgment in Case No. 1 that invasions, aggressive acts, aggres-
sive wars, crimes, atrocities or inhumane acts were
planned or occurred, shall be binding on the tribunals es-
tablished hereunder and shall not be questioned except insofar
as the participation therein or knowledge thereof by any
particular person may be concerned. Statements of the Inter-
national Military Tribunal in the judgment in Case No. 1 con-
stitute proof of the facts stated, in the absence of substant-
tial new evidence to the contrary."

Under the quoted provision, pertinent findings of the ITT in regard to
aggressive wars and aggressive acts binding on the Tribunal for the purposes
of the Crimes against Peace charged in the indictment in this case include:
That aggressive wars were planned and waged by Nazi Germany against Poland on
September 1, 1939; against Denmark and Norway, 9 April 1940; against Belgium,
Holland and Luxembourg, 10 May 1940; against Greece and Yugoslavia, 6 April
1941; against the Soviet Socialist Republics, 22 June 1941; and against the
United States of America, 11 December 1941.

It was further stated by the ITT in regard to Anschluss that Austria
"was occupied pursuant to a common plan of aggression," and,

"...the methods employed to achieve the object were those of
an aggressor. The ultimate factor was the armed might of
Germany ready to be used if any resistance was encountered."

The provisions of the Control Council Law require the same basic
elements for the commission of the Crime against Peace as are required under
elementary principles applicable to criminal law. There must be an act of substantial participation and there must be the accompanying criminal intent or state of mind. Under Control Council Law No. 10, the building of armament or the development of the "war potential" in the form of planning production of, or planning facilities for the production of, raw materials essential to the waging of war may constitute a sufficient act of participation to warrant affixing criminal responsibility to the act as planning and preparation for aggressive war. Such action must, however, be combined with the necessary intention to further the aim of aggressive war and, as contended by the prosecution, must constitute a substantial participation. As to the character of the knowledge required to constitute a state of mind amounting in law to criminal intent in relation to the Crime against Peace, with great ability, the prosecution has argued:

"In dealing with the act we have stated that anyone who bears a substantial responsibility for conducting activities which are vital to furthering the military power of a country participates in the crime. With respect to the state of mind, this is the knowledge that such military power will be used or is being used for the purpose of carrying out a national policy of aggrandizement to take from the peoples of other countries their land, their property or their personal freedoms.

"It is the position of the prosecution that in connection with the charges of preparation and planning and the charge of conspiracy it is sufficient if there exists the belief that although actual force will be resorted to if necessary, such purpose will be accomplished by using the military power merely as a threat; and that it is not essential that the defendants know precisely which country will be the first victim or the exact time that the property rights or the personal freedoms of the peoples of any country will be under attack.

"10. A separate question which need not be discussed here concerns what type and quantum evidence is necessary to establish beyond a reasonable doubt that any particular defendant knew at any particular time that Germany's military power would be used for the purpose of carrying out a national policy of aggrandizement to take from the peoples of other countries their land, their property and their personal freedoms. It is sufficient to note here that the prosecution does not contend that the wide publicity given to the program and aims of the Hitler movement over a period of years is enough in itself to establish beyond a reasonable doubt that the average person within Germany had the required knowledge. And the evidence must establish more than knowledge of the aggressive program and aims of the Nazi government and belief that there was a possibility that force would be used to carry out the policy of aggrandizement. It must establish beyond a reasonable doubt that the defendants believed that actual force would be employed if necessary to achieve such policy."

The test of guilty participation in the Crimes against Peace for which the Nazi Government was responsible was stated in the judgment of the International Military Tribunal as follows:
"The argument that such common planning cannot exist where there is complete dictatorship is unsound. A plan in the execution of which a number of persons participate is still a plan, even though conceived by only one of them, and those who execute the plan do not avoid responsibility by showing that they acted under the direction of the man who conceived it. Hitler could not make aggressive war by himself. He had to have the co-operation of statesmen, military leaders, diplomats, and business men. Then they, with knowledge of his aims, gave him their co-operation, they made themselves parties to the plan he initiated. They are not to be deemed innocent because Hitler made use of them, if they knew what they were doing. That they were assigned to their tasks by a dictator does not absolve them from responsibility for their acts. The relation of leader and follower does not preclude responsibility here any more than it does in the comparable tyranny of organized domestic crime."

This broad test of participation in the common plan or conspiracy is, in my opinion, equally applicable to the charges of participation in the planning and preparation of aggressive war. The inquiry must be whether there is knowledge of the "aims" of Hitler. In this regard participation in the policies, planning and purposes of the Nazi regime, as such, does not of itself constitute the Crime against Peace. There must be participation after concrete plans for the waging of aggressive war have been arrived at and there must be in the mind of the individual sought to be charged a positive knowledge of the intention to resort to aggressive war. It is not necessary, as contended by the defense, that there be knowledge of specific plans for aggressive war against specific countries as of a certain time. Nor is it necessary that an exact knowledge of the order of the victims of aggressive war be shown. It will suffice if the ultimate aim to resort to aggressive war is known or believed at the time of substantial participation but such knowledge or state of mind must be established by convincing proof beyond reasonable doubt. Furthermore, in this stage of the development of international law denouncing the Crime against Peace it is preferable for a Tribunal to err on the side of liberality in the application of the rule of reasonable doubt.

Analyzing the contention advanced by the prosecution, I conclude that, however desirable such a legal conception of the requisite of knowledge might be as a matter of policy in international law, the proposition advanced in this definition of state of mind is too broad and goes beyond the provisions of Control Council Law No. 10. The relationship between acts of aggression, backed by threats of force, and the evil of aggressive war is
sufficiently immediate to warrant serious consideration of the standard proposed in the further delineation of legal aspects of the Crimes against Peace. I cannot conclude, however, that because the individual defendants knew that the Germany policy of territorial aggrandizement, backed by military power, was being carried out in the absorption of Austria and Czechoslovakia that such knowledge constituted the state of mind or the criminal intent required for the commission of the Crime against Peace. I agree with the prosecution's contention that the evidence in this case does establish that most, if not all, of the defendants knew or believed that military power would be used as a threat to force territorial concessions from Czechoslovakia, Poland, and other nations in favor of Germany. The evidence does not, however, establish beyond reasonable doubt that the defendants actually knew or believed that force to the point of aggressive war would actually be resorted to if necessary. The argument of the prosecution, carried to its logical conclusion, would mean that, in the cases of Austria and Czechoslovakia, those defendants might have been held guilty of the Crime against Peace even though actual aggressive war did not result from those aggressive acts. It is true that in the case of the defendant Raeder the International Military Tribunal dismissed the contention that Raeder did not have the requisite guilty knowledge because he contended that he believed Hitler would obtain a political solution to Germany's problems without the necessity for actual warfare because of the overwhelming might of Germany. But, it must be borne in mind, that Raeder, through attendance at a conference at which Hitler specifically announced his plans to wage aggressive war, if necessary, had actual knowledge that the then head of the State had decided to embark upon a program of aggression and to pursue it even to the point of engaging in actual warfare to achieve the objective of territorial aggrandizement. In the case of the Farban defendants, while they knew that acts of aggression had been and were being carried out in connection with Austria and Czechoslovakia, and, in fact, the defendants participate in acquiring industries resulting from the acts of aggression mentioned, it cannot be concluded that such action necessarily amounts to the requisite knowledge or state of mind constituting plans to wage aggressive war. Activities of the defendants in this case, conceding that they were of material aid in bringing about territorial aggrandizement by use of threats of force, do not under the circumstances of
in this case constitute the Crime against Peace. It is incumbent upon the prosecution to go further with its evidence and to prove by specific evidence that the individual defendant sought to be charged was aware of a plan to resort to aggressive war if necessary to achieve the objective of territorial aggrandizement. Similar conclusions must be advanced with reference to the invasion of Poland, the aggressive act immediately resulting in World War II. Here, the evidence is not conclusive to the effect that the defendants actually know of a decision to absorb Poland by force, which would be actively pushed to the point of war, if necessary, to achieve the objective of territorial aggrandizement. As the Polish crisis developed, the defendants certainly knew or were charged with knowledge of the fact that methods of aggression were being employed. There were threats of force to their knowledge. But there existed the possibility that with stiffening resistance war might not result because the aggressor would not continue the policy to the point of open warfare. The evidence does not otherwise conclusively connect the individual defendants with the planning and preparation of any of the other aggressive wars waged by Germany with specific knowledge of the decision to initiate such aggressive wars.

Accepting as sound that portion of the IHT Judgment which specifically holds that rearmament of itself is not a crime unless carried out as part of a plan to wage aggressive war, I also conclude that the action of the defendants constitutes participation in armament under circumstances not proved beyond reasonable doubt to have been with actual knowledge of Hitler's ultimate aim to wage aggressive war. Despite strong inferences to be drawn from much of the evidence as applied to some of the individual defendants, as to intent and knowledge, the extraordinary standard of proof which probably should be exercised in this stage of the development of the Crime against Peace is not clearly met and, for this reason, I concur in the acquittals under Count One to charges of planning and preparation of aggressive war. Criminal connection with the decisions of the Nazi regime to initiate aggressive wars has likewise not been established.

There remains only the question of whether any defendant is to be held guilty of "waging" aggressive war. This is the portion of the prosecution's case which is the most difficult for the defendants to meet. From the
time of the invasion of Poland the defendants knew or were chargeable with
knowledge that the wars being waged by Germany were aggressive wars and the
substantial contribution of the defendants to the conduct of those wars cannot
be successfully denied. The prosecution, not without considerable logic and
weight of argument, relies upon the activities of the defendants in connection
with both spoliation and slave labor as constituting an integral part
of the waging of aggressive war. In the latter connection there is some
analogy between the activities of certain of the defendants in the field of
spoliation and slave labor and those of Hermann Roehling, convicted under
Central Council Law No. 10, by an International Military Tribunal in the
French Zone of Occupation under charges of "waging" aggressive war. (Judg-
ment rendered 30 June 1948 by the General Tribunal of the Military Government
of the French Zone of Occupation in Germany in the case against Hermann Roeh-
ling et al.) In that case Hermann Roehling was held not guilty of the
charges of preparation of wars of aggression. The evidence against him
established that he had attended several secret conferences of Goering in
1936 and 1937 and had pushed the utilization of low grade ore which did not
pay commercially in the important steel industries under his direction. The
Tribunal held that the act of preparing armament did not necessarily imply,
as the IRT held, that the purpose was to launch a war of aggression. It
concluded on the facts that it had not been shown by the proof that Hermann
Roehling was ever informed that wars of aggression would be undertaken, and
that there was no showing that he had ever participated in the preparation
of wars of aggression. However, the Tribunal held that he was guilty of
waging wars of aggression for the following reasons:

"After the invasion of Poland in 1939, of Denmark,
Norway, Belgium, Luxembourg and the Netherlands in
1940, of Jugoslavia, Greece and Russia in 1941, none
could any longer have any doubts concerning the pur-
pose of the wars unleashed by the Government of the
Reich, that the aggressive character of those wars has,
moreover, been recognized by the aforesaid judgment of
the International Military Tribunal."

The Tribunal held that Roehling had stepped out of his role of
industrialist, demanded and accepted high administrative positions in order
to develop the German ferrous production. The facts then recited are that
he became Plenipotentiary General for the steel plants of the Departments
of the Roselle and Marnthe-et-Roselle Sud; that he seized industries having
steel production of nine million tons and employing more than two hundred thousand people; that after allocation by Göring of the seized plants he endeavored to increase production of those plants for the war effort of the Reich; he made proposals to Reich authorities concerning increased production of iron; that he was later placed in charge of the Reich Association Iron, charged with intensifying the German ferrous production and exploiting such production in the occupied countries; that exercising his powers he demanded of industry in occupied countries that they work in order to increase the armament of a power at war with their own country. He was held guilty of crimes against peace because by his actions he "contributed in a large measure to the continuation of aggressive wars during three years." The Reichling decision is, therefore, an authority for the view that participation in the exploitation of occupied countries in the interest of the German war effort under the circumstances referred to does constitute a crime against peace. However, I conclude that facts in evidence against the present defendants present a difference of degree sufficient to distinguish the cases. I do not feel warranted in expressing dissent as to the acquittal of the present defendants of the charge of waging of aggressive war base solely upon the Reichling case.

It is impossible, in my view, to harmonize those aspects of the judgment of the International Military Tribunal dealing with the waging of aggressive war so as to draw therefrom a consistent principle governing the waging of aggressive war as used in the Charter and the Control Council Law. In dealing with the case of Dönitz, the I.M.T., after concluding that there was no evidence establishing that Dönitz was informed of decisions to wage aggressive war, nevertheless, held Dönitz guilty of waging aggressive war by virtue of participation in submarine warfare immediately upon the outbreak of war. In contrast, Speer's activities as head of the armament industry after aggressive war was well underway did not result in conviction. Said the I.M.T. as to Speer:

"His activities in charge of armament production were in aid of the war effort in the same way that other productive enterprises aid in the waging of war but the Tribunal is not prepared to find that such activities involve engaging in the common plan to wage aggressive war as charged in Count I or waging aggressive war as charged in Count II."
It may seem illogical that a high naval officer, performing the duties of the branch of the armed service which he heads, should be found guilty of the waging of aggressive war and the minister of munitions and armament hold not responsible for activities which in most cases are even more vital to the waging of war than the tactical decisions required of the military commander. The compulsion of military discipline in a nation at war was certainly more real and less the object of choice in the case of the naval officer than in the case of the civilian armament minister. But in default of sufficient evidence to warrant conviction under the charge of planning and preparation of aggressive war it would not be logical in this case to convict any or all of the Farben defendants of the waging of aggressive war in the face of the positive pronouncement by the International Military Tribunal that war production activities of the character headed by Speer do not constitute the “waging” of aggressive war. Nor is there a valid answer in extent and the indispensability of the Farben contribution to the German war effort. Speer’s acquittal when considered in the light of Schacht’s acquittal poses insuperable obstacles to the conviction of those defendants. The factual differences which may be drawn based upon Farben’s substantial and sustained contribution to the German war effort do not, in my opinion, lead to a difference in result unless this Tribunal refuses to follow the implications of Speer’s acquittal. Despite the cogent arguments based upon other portions of the IMT judgment, I reach the conclusion that the precedent in the case of Speer should be followed here and that the defendants should not be convicted solely of the crime of waging of aggressive war.

For the reasons stated I concur in the acquittal of all defendants under Counts One and Five of the indictment.

/s/ Paul H. Hobert
Paul H. Hobert
Judge, Military Tribunal VI