

London Agreement (1945)

*John Q. Barrett**

Copyright © 2015 by John Q. Barrett.
All rights reserved.

On August 8, 1945, Justice Robert H. Jackson and his Allied Nation counterparts signed the historic London Agreement. It created the International Military Tribunal and, in a Charter annexed to the Agreement, prescribed the IMT's constitution, jurisdiction and functions.

The London Agreement fulfilled and advanced Allied leaders' declarations during World War II that the major German Nazi leaders were international law violators, that their offenses transcended particular locations and affected more than particular victims, and that these criminals thus should be, after their military defeat and captures, punished by an Allied international process.

The governments of the United States, France, the United Kingdom and the Soviet Union reached the London Agreement after weeks of negotiation. The Agreement, a brief document, created the IMT and its Charter, prescribed the procedure for other nations to subscribe to this undertaking, defined the Tribunal's period of operation, and defined continuing national jurisdictions over other war criminals.

The IMT Charter, part of the London Agreement, is a more extensive document. It constituted the Tribunal, defining the number of judges, its quorum, and its majority vote requirements for convictions and punishments.

The Charter also, in provisions that were products of very complex and sometimes precarious negotiation, defined the IMT's jurisdiction. It included crimes against peace, war crimes, and crimes against humanity, plus co-conspirator liability for each of those substantive crimes. Its jurisdiction included leaders: official position was no basis for legal

* Professor of Law, St. John's University School of Law, New York City, and Elizabeth S. Lenna Fellow, Robert H. Jackson Center, Jamestown, New York (www.roberthjackson.org). I emailed an earlier version of this essay to The Jackson List on August 8, 2015.

For an archive of selected Jackson List posts, many of which have document images attached, visit <http://thejacksonlist.com>.

To subscribe to The Jackson List, which does not display recipient identities or distribute their email addresses, send "subscribe" to barrettj@stjohns.edu.

LONDON AGREEMENT (1945)

immunity. Its jurisdiction also included subordinates: “act[ing] pursuant to order of his Government or of a superior” was no basis for any person’s legal immunity.

The Charter also defined “fair trial” procedures, including defendants’ rights to particularized indictments, to testify, to have the assistance of counsel, to present evidence, and to cross-examine prosecution witnesses.

The London Conference negotiations occurred, beginning in late June 1945, primarily at Church House at Westminster Abbey. Final agreement was reached during the negotiating session on Thursday, August 2, 1945.

During ensuing days, staff prepared official English, French and Russian language versions of the agreement for signature.

On the morning of August 8th, Justice Jackson for the United States, Judge Robert Falco of the Provisional Government for the French Republic, Lord Chancellor William Jowitt for the United Kingdom, and both General Iona T. Nikitchenko and Professor Aron N. Trainin of the U.S.S.R. signed the London Agreement.



L-R, seated: Jowitt, Jackson and Falco.

LONDON AGREEMENT (1945)

It created the first international criminal court.

It charted (indeed, Chartered) the path to the Nuremberg trial that began in November 1945.

It defined crimes that are foundations of modern international criminal law.

* * *

Some links—

- For the London Agreement, [click here](#).
- For the Charter of the International Military Tribunal, [click here](#).
- For a transcript of the August 2, 1945, London Conference final negotiating session, [click here](#).
- For the entire London Conference proceedings, as published by the U.S. Department of State in 1949, [click here](#).