

Processed With:

2001-1166-F

FOIA MARKER

This is not a textual record. This is used as an administrative marker by the George Bush Presidential Library Staff.

Record Group/Collection: George H.W. Bush Presidential Records				
Collection/Office of Origin: National Security Council				
Series: Blackwill, Robert D., Files				
Subseries: Subject File				
OA/ID Number: CF00182				
Folder ID Number: CF00182-021				
Folder Title: [German Reunification 11/89-6/90] [2]				
WHORM Category/Subcategory:			WHORM Case Number:	
Row: 1	Section: 7	Shelf: 4	Position: 1	Stack: V

~~SECRET~~

APNSA Has Seen 2/23/90
NATIONAL SECURITY COUNCIL 906
WASHINGTON, D.C. 20506

February 23, 1990

Brent-- We are also
working on a Presidential
Press Statement and Qs/As
for Sunday's press conference.
We will get those to you
early afternoon.
BS Blackwill

MEMORANDUM FOR BRENT SCOWCROFT

FROM: ROBERT BLACKWILL

SUBJECT: State Department Papers on Two Plus Four Talks

We worked with Ray Seitz and Jim Dobbins to produce the options paper at Tab B on the future of the Two Plus Four talks. I think it is a reasonable description of alternatives and challenges before us regarding this forum. Bob Zoellick and Dennis Ross killed this paper late last night and it now has no standing. (Please don't mention this paper to State).

Instead, Zoellick sent over the paper at Tab A which contains objectives for the Kohl visit (not very different from ours) and a muted defense of the Two Plus Four mechanism. You will note on pages 4-5 that Zoellick and Ross have in mind that the Two Plus Four forum will discuss broad issues of European security.

More worrisome than the Zoellick paper is what he and Ross really intend for Two Plus Four. Seitz told me that Baker promised Shevardnadze, Hurd and Dumas in Ottawa that the first meeting of the Two Plus Four group would occur before the March 18th GDR elections. Zoellick and Ross want the first Ministerial meeting of the group shortly thereafter. They continue to base their argument for this fast pace on two premises that in my mind are dubious: 1) that it will help Gorbachev in his internal Soviet debate on the future of Germany; and 2) that in the absence of intense Four Power Ministerial meetings, the Germans will make a secret bilateral deal with Moscow at our and NATO's expense. (We are doing a paper for you on this last hypothesis which we will get to you today).

As I mentioned to you the other night, I think Secretary Baker and his close colleagues find the prospect of negotiating the future security structure of Europe in the Two Plus Four Ministerial context irresistible.

Finally, Zoellick suggests that you and Baker find some time to discuss the future of the Two Plus Four mechanism before Kohl arrives at Camp David.

Attachments

Tab A Ross/Zoellick Paper
Tab B Seitz/Dobbins Paper

~~SECRET~~

Declassify on: OADR

DECLASSIFIED
PER E.O. 12958,
AS AMENDED
2008-0658-MR
Jr 5/13/09



THE COUNSELOR
DEPARTMENT OF STATE
WASHINGTON

February 22, 1990

NOTE FOR BOB BLACKWILL

RE: Draft Paper RE: Kohl Visit and Two-Plus-Four

- o I've attached a draft paper divided into two parts.
- o The first discusses our objectives for the Kohl visit. We sought to include the points we discussed (including the "cocoon" strategy) on NATO, consultations, two-plus-four process, and two-plus-four substance. In doing so, it is both a suggested approach to the meetings (which seemed useful) and a document that raises two-plus-four issues in case our bosses wish to discuss them. (I think the rendition of two-plus-four on issues of timing, relation to other "cocoon" processes, and substance probably meets most of the concerns you and Conte raised, but you can be the judge.)
- o The second part simply lists some "themes" (or abridged talking points) that reflect the approach outlined in the paper.
- o Secretary Baker hasn't seen this draft, but I will bring it to his attention Friday morning. Perhaps we should talk about arranging some time for the Chiefs to meet to discuss.
- o Sorry we got this to you so late on Thursday.


Bob Zoellick

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
01c. Paper	Our Objectives for Chancellor Kohl's Visit [FOIA RESTRICTIONS REDACTED] (8 pp.)	n.d.	(b)(1)	S

Collection:

Record Group: Bush Presidential Records
Office: National Security Council
Series: Blackwill, Robert D., Files
Subseries: Subject File
WHORM Cat.:
File Location: [German Reunification 11/89-6/90] [2]

Document Partially Declassified
(Copy of Document Follows)
 By MM on 11/20/2015

Date Closed: 9/15/2003	OA/ID Number: CF00182-021
FOIA/SYS Case #: 2001-1166-F	Appeal Case #:
Re-review Case #:	Appeal Disposition:
P-2/P-5 Review Case #:	Disposition Date:
AR Case #:	MR Case #: 2011-1365-MR(510.02)
AR Disposition:	MR Disposition: Released in Part
AR Disposition Date:	MR Disposition Date: 7/31/2014

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P-1 National Security Classified Information [(a)(1) of the PRA]
 P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
 P-3 Release would violate a Federal statute [(a)(3) of the PRA]
 P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
 P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
 P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

Freedom of Information Act - [5 U.S.C. 552(b)]

(b)(1) National security classified information [(b)(1) of the FOIA]
 (b)(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
 (b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
 (b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
 (b)(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
 (b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
 (b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
 (b)(9) Release would disclose geological or geophysical information

DRAFT

~~SECRET/NODIS~~



OUR OBJECTIVES FOR CHANCELLOR KOHL'S VISIT

I. Introduction

The President's meeting with Chancellor Kohl is a critical point in the formulation of a joint US-FRG approach to German unification. The Germans are appreciative of American leadership in bringing the Soviets and other allies around on unification. But the Kohl government needs to be reminded that we need its closer cooperation -- and particularly timely consultations -- to help bring about a soft-landing for unification. We need a strong two-way street, if the Two-Plus-Four and other supporting processes are to work to our mutual advantage.

Thus, we need to focus on three important objectives when the President meets Kohl:

- Substantive: Reaffirm a strong German commitment to NATO membership.
- Procedural: Foster a joint approach to consultations surrounding the Two-Plus-Four process, creating a "cocoon" of Western ties (including NATO meetings) to support the FRG as it faces Soviet demands.
- Explanatory: Discuss ideas on what the Two-Plus-Four mechanism can accomplish.

II. Firm German NATO Membership

Our key objective will be to have Kohl reaffirm Bonn's commitment to having a united Germany retain its membership in NATO. Kohl will have reasons to share this objective:

- Germany still needs US/NATO defense commitments in a time of uncertainty.
- US nuclear guarantees are only extended to Germany via our NATO involvement.
- Germany must be concerned about its neighbors' fears of a neutral, but militarily/economically potent Germany.
- Germany considers itself part of all Western institutions and will not want to be outside any important security framework.

We share these interests but have two additional substantive requirements:

- US troop presence in Europe is closely tied to US commitments to NATO and heavily dependent on Germany's membership in the Alliance. We should seek Kohl's commitment to a continued US troop presence in Germany.

~~SECRET/NODIS~~
DECL. - OADR

DECLASSIFIED IN PART
PER E.O. 13526
2011-1365-MR
7/31/2014 MH

DRAFT

- Maintaining a credible nuclear deterrent in Europe will require Germany's continued membership and agreement to some form of US nuclear basing.

To indicate the importance of Germany membership in NATO, we should also seek Kohl's agreement to two NATO processes:

- A NATO discussion of the changing security environment, given Germany's unity. This should lead to agreement on the special security arrangements for the former GDR territory within a unified Germany.
- NATO consultations on the Two-plus-Four process. We must avoid undermining our earlier efforts to enhance the political consultative role of NATO by suggesting that a major issue like German unification is not an appropriate topic for Alliance discussions.

Finally, we want to invite Kohl's own views on how we can assist in preparing NATO to take on new missions and a more political role:

- NATO's arms control verification role must be developed.
- We need to utilize existing Alliance consultation mechanisms for discussing new security challenges (e.g., nuclear/chemical proliferation, regional conflicts, etc.)

III. Joint Consultations on Two-Plus-Four

A second critical objective is to gain Kohl's firm commitment to close bilateral and allied (One-Plus-Three) consultative processes in preparation for Two-Plus-Four. Along with the NATO consultations, these meetings can help buck up the Germans in the face of expected Soviet demands. We can reinforce Kohl's support by making clear that the Two-Plus-Four mechanism can only be a facilitator of unification, not a brake. The Germans' statements and actions suggest they recognize the utility of the Two-Plus-Four process in reassuring the Soviets and other Europeans that unification can occur in a peaceful, stabilizing fashion (while also getting all parties to accept unification).

We need to emphasize that Two-Plus-Four will work best if we adopt a proven formula of consultations in addition to the NATO discussions we will seek:

- First, close US-FRG consultations. We must have a two-way street. (Kohl should hear from the President that we do not expect to hear again about upcoming German-Soviet meetings from Moscow.)

DRAFT

- Second, consultations within the Quad (One-Plus-Three) to ensure we approach the Two-Plus-Four talks with a common view.
- Third, consultations in NATO on the security aspects of unification and in the EC on the economic aspects. (An EC summit on the issue is agreed for April.)
- Only then -- and once the Germans have made significant progress toward unification and can begin to put forward proposals for consideration by the Two-Plus-Four -- would we begin Ministerial Two-Plus-Four talks. This would necessarily hold off such a meeting until after the March 18th elections.

We must also avoid surprises and minimize suspicions:

- The internal unification process must remain a matter for the two Germanies, but the Germans should keep the Four Powers informed to reduce misapprehensions and suspicions of separate deals. The One-Plus-Three and Two-Plus-Four mechanisms are appropriate for such exchange of information.
- The external aspects of unification must also be decided by the Germans, but with due consideration for European neighbors' concerns.
- Close consultations among the One-Plus-Three and with other European allies have to proceed in parallel to Two-Plus-Four talks.
- While taking account of Kohl's political needs, we must find ways -- soon after the March elections -- to meet Polish and other Europeans' needs for legal reassurances on borders. We should urge Kohl to come forward with proposals on this before he comes under pressure in the Two-Plus-Four mechanism. (As a matter of policy, however, we should make it clear that we do not foresee the complete end to Four Power rights until there is a reaffirmation of the Helsinki principle of "inviolable borders" that is legally binding on a new united German state.)

Part of our close consultations should be to work out now with the Germans how we plan to employ the Two-Plus-Four mechanism.

- We see value in beginning now close US-FRG bilateral discussions on Two-Plus-Four, to determine where the Soviets might be headed and how we might present issues in ways that bring the Soviets along to the results we seek.

DRAFT

- Insistence of the British, French and Soviets may pressure us to consider a lower level meeting prior to March 18th. We can seek to hold off such a meeting, but if the Germans are willing to have one, we should not object as long as we have suitable time for preparatory One-Plus-Three meetings.
- Two-Plus-Four meetings, beginning after March 18th and after the unification process is in train, could be regular but not initially at a Ministerial level. The Soviets may well want high-level talks to begin soon and at a senior level (as might the UK and French), so we should discuss our preferences with the Germans now.
- We can expect pressures for a ministerial level meeting soon after March 18, but we should probably seek to defer such a meeting at least until after the US-Soviet Ministerial in early April. (That meeting will offer us a better fix on the Soviet position on what they want from Two-Plus-Four and how quickly Moscow wants to move in that setting.)

IV. Explaining the Possible Substance of Two-Plus-Four

Our third objective must be to explain further how we see the Two-Plus-Four mechanism dealing with substantive external aspects of German unification. There are at least four categories of issues that touch on the external aspects of unification:

- Issues that the Two-Plus-Four can discuss and eventually decide. These deal primarily with Four Power rights for Berlin and Germany as a whole: such things as Military Liaison Missions (MLM), Berlin status as the new capital, and the relinquishment of Four Power rights.
- Issues that can be discussed in the Two-Plus-Four, but ultimately only decided by the Germans themselves. These include military forces on GDR territory (German and Soviet); continuation of German self-restraints on the production of nuclear, biological, and chemical weapons (NBC); and adherence to the NPT agreement. The Germans should be sensitive enough about these issues. We should expect the Germans themselves to take the lead.
- Issues that the Two-Plus-Four can discuss but must involve broader European participation in some forum. Many security-related matters fall into this category. The non-extension of NATO jurisdiction to the Oder-Neisse ultimately requires some Alliance discussion, as it will affect NATO's future military posture and requirements.

Settling final borders will also be discussed in Two-Plus-Four, but other neighbors -- especially the Poles -- will expect to be included in any final settlement of this issue. The FRG's economic contacts and assistance to the Soviets might be a bilateral matter, but it could also affect the EC and NATO.

- Issues that we do not discuss in a Two-Plus-Four setting include issues of a strictly bilateral nature. We do not plan to discuss the US-FRG status of forces agreement, which will be a subject for the US and the new German government to sort out. NATO's nuclear posture, and the status of SNF negotiations, should not be discussed.

1.4(c); 1.4(d)

agreements between the US and the FRG should also be off limits, as a strictly bilateral arrangement.

There needs to be a firm US consensus on where these various issues should be discussed. In general, Two-Plus-Four can exchange views on many topics, but it can decide very few. Indeed, we should expect that the Two-Plus-Four process will need to be accompanied by active bilateral contacts (especially US-FRG, US-Soviet, and FRG-Soviet) that might help establish the basis for discussions in the Two-Plus-Four that could resolve differences. Similarly, there will be related discussions in NATO, the EC and the CSCE process.

DRAFT**KEY THEMES FOR CAMP DAVID****SETTING THE STAGE**

- Historic meeting: A US President and a German Chancellor talking about the mechanics and practical steps needed to achieve German unity.
- No other American or German leader has been so privileged. Therefore, we must do our share to insure that German unity comes about in a peaceful, stable fashion.
- Congratulate Kohl on his contributions to making the unification process orderly. A united, liberal democratic Germany is emerging within a strong and increasingly integrated Europe. This has been our goal for 45 years.
- We all recognize that it's happening more quickly than anticipated, because of the economic crisis in the GDR. This is why we believe it's important to intensify the talks between the two governments and the broader consultation process that we agreed should be the Two-Plus-Four.

LOCKING IN NATO MEMBERSHIP

- Reaffirm commitment to a unified Germany as a NATO member.
- US troop presence.
- Some form of nuclear basing.
- NATO process to discuss changing security environment (how to provide NATO's security to the former GDR in a united Germany).
- NATO consultations on Two-Plus-Four.
- Seek German support for ideas to help NATO assume new missions (e.g., arms control verification, discussion of proliferation issues, and regional conflicts)

DEVELOPING BROADER CONSULTATIONS

- In the near-term, we need to allay fears of other NATO allies and Eastern neighbors about the Two-Plus-Four process being an exclusive club for deciding on a future European security order. We'll need to develop bilateral and multilateral consultations with others to reduce those fears.

- We have no interest in broadening the Two-Plus-Four mechanism. At the same time, we need to give serious and early attention to the modalities for meeting Polish and other Europeans' needs for legal reassurances on borders.

RUN-UP TO TWO-PLUS-FOUR: NO SURPRISES

- We've no set views on timing or substance, and we would welcome German ideas. But several general points guide our thinking:
 - The proven formula of close US-FRG consultations, then discussions among the Four Western partners (One-Plus-Three) has worked well to get us to Two-Plus-Four. We should continue this practice.
 - We want to be sure that the consultations are a two-way street. We've given Bonn full briefings of what we've been doing with the Soviets and what they have said. We do not feel we've gotten complete briefings from the FRG's discussions with the Soviets. For example, we should not have to hear from the Soviets that the Chancellor would be traveling to Moscow.
 - We've helped to create an environment that has everyone accepting unification. We can do much in this regard, but there shouldn't be any surprises from any quarter.
 - We've not surprised you and we won't. But we need to know that you won't surprise us.
 - We also need to allay suspicions among Western partners. The more we appear to consult with other European partners, the less likely we are to face unsubstantiated fears of separate deals and secret protocols.

TWO-PLUS-FOUR: WHAT IT IS, WHAT IT ISN'T

- The Two-Plus-Four should be a place to discuss, not decide, the many external aspects of German unification. Decisions on external issues will generally be up to Germany. When Germany has agreed to make decisions as part of Alliance or EC discussions, the forum for those decisions will be NATO or the EC. We can discuss external matters with the Soviets, but we should be firm about not taking decisions that affect the interests of other neighbors without full consultations with them.

DRAFT

- We want to get German views on the kind of security-related issues that might be discussed, not decided, in the Two-Plus-Four. We should be prepared to discuss, for example, our strong support for a united Germany remaining in NATO, the special military status of the GDR, Berlin, the modalities for recognizing the end of Four Power rights, and final German borders.
- While the Germans may not wish to discuss economic issues in the Two-Plus-Four, we will want to stay current with FRG-Soviet arrangements on this issue.
- We would propose that the Foreign Ministers work out a plan for further discussions on how we jointly proceed with the Two-Plus-Four.

~~SECRET~~

MANAGING "TWO-PLUS-FOUR" CONSULTATIONS ON GERMAN UNIFICATION

The Two-Plus-Four formula for discussing "the external aspects" of German unification will help bridge the gap between bilateral diplomacy -- German/German, German/US, German/Soviet, etc. -- and exchanges in larger multilateral fora like NATO, the EC, CFE and CSCE where various aspects of unification will also be treated. The Two-Plus-Four forum provides the appropriate mechanism for the four powers to conclude their legal responsibilities for Germany, and to agree upon the transfer of their remaining rights for Berlin and Germany as a whole to a reunified Germany. Rapid agreement on these points will be the FRG's objective. Other participants, and particularly the Soviet Union, will also want to use this forum to establish permanent limits on German sovereignty and to regulate Germany's place in the future European security system as the price for acquiescing in unification and giving up remaining four power rights.

The United States seeks a unified Germany with strong democratic institutions, and with unrestricted ties to the West, including full membership in the European Community and NATO. The United States also has an important interest in ensuring that German unification takes place in a stable

~~SECRET~~

DECLASSIFIED
PER E.O. 12958,
AS AMENDED
2008-0654-MK
12/15/09 KO

~~SECRET~~

-2-

and benign international environment, an environment conducive to the long term success of the democratic and economic experiments underway throughout Central and Eastern Europe. The challenge before us, therefore, is to help reassure Germany's neighbors, particularly its Eastern neighbors, regarding the impact of unification on their interests, to encourage the Soviet Union to sustain its military disengagement from Central and Eastern Europe, and to ensure that a unified Germany remains in NATO and in its integrated military system, that NATO remains committed to the defense of Germany, and that U.S. forces, nuclear and conventional, remain in Germany and committed to NATO.

Two-Plus-Four discussions cannot and should not bear the full brunt of this task, but they will play a key role. In addition to providing the locus for the devolution of four power rights, Two-Plus-Four talks may also help secure Soviet acquiescence in the establishment of a democratic, Western-oriented Germany. At the same time, bilateral contacts, and multilateral processes like CFE and CSCE can also influence Soviet behavior in the desired direction. "Two-Plus-Four" talks will also need to be supplemented by broader discussions if we are to secure necessary support for U.S. objectives from our NATO Allies and Germany's Eastern neighbors.

~~SECRET~~

~~SECRET~~

-3-

Timing, Agenda and Strategy

In arranging Two-Plus-Four talks we face interrelated choices regarding the content and pace of these negotiations. Do we wish to use this venue as the principal forum for resolving the major issues of post-unification German and European security, or do we wish to limit the agenda to borders, Berlin and transitional security arrangements for East German territory. Do we wish the Two-Plus-Four to set the pace for progress toward reunification, or do we want to keep German/German negotiations in the foreground, moving discussion to the Two-Plus-Four forum only when the Germans are agreed on a proposal for unification, and when bilateral US-Soviet and FRG-Soviet discussions suggest a four power deal is available.

Narrow vs. Broad

If, as appears likely, unification occurs by the GDR's choosing to be incorporated into the FRG, the existing commitments of the FRG -- to the EC, NATO, the NPT, etc. -- would continue. The four powers need concern themselves only with the question of which GDR obligations carry over, and which lapse. In taking this position, the Western participants could seek to confine Two-Plus Four talks to East Germany, and to those other issues on which four power accord was necessary, i.e., borders and Berlin.

~~SECRET~~

~~SECRET~~

-4-

The Soviet Union will likely seek a broader agenda. They will press not just for demilitarization of East Germany, but for changes in Germany's relationship with NATO, and for some equivalency in the handling of Soviet and Allied troop presence in Germany (i.e., all foreign troops go; or if they stay, they all stay on similar terms).

Fast or Slow

The Germans will probably want unification to move quickly. The Soviet Union, and less openly the British and French will want to slow it down. All will see early Two-Plus-Four talks as more likely to delay the process than to accelerate it. The Germans, therefore, are likely to want to put off substantive Two-Plus-Four consultations until they have an agreed plan for unification ready to present. The FRG and GDR will also likely have moved to put in place substantial aspects of economic and monetary union before any Two-Plus-Four discussions are held. The Soviets, on the other hand, will want to move the Two-Plus-Four mechanism forward in order to exercise greater influence over the shape as well as the pace of unification. (Genscher, on a personal basis, may have some personal material to profile himself as early and as often as possible through Two-Plus-Four meetings.)

~~SECRET~~

~~SECRET~~

-5-

Once the Two-Plus-Four talks are convened, the Germans, or at least the FRG, will likely push for rapid agreement by the four to transfer remaining rights to a unified Germany. The FRG will probably be prepared to postpone some important issues, such as agreement on full Soviet troop withdrawals, for subsequent negotiations, either in the Two-Plus-Four or elsewhere. In contrast, while the Soviets will press for an early convening of the Two-Plus-Four mechanism, they will then argue that all significant issues will need to be resolved in that forum before they are prepared to give up their remaining rights for Berlin and Germany.

The British and French may share the Soviets' predilection for an early convening of Two-Plus-Four talks, and will likewise be reluctant to give up their rights early in the game. But the UK and France will also be very cautious about opposing the FRG's preferences without U.S. backing.

The United States may thus be in a pivotal position to determine both how early or late the Two-Plus-Four forum is engaged in the unification process, and how narrowly or widely the Western participants seek to construe this forum's mandate.

The Broader Context

As noted earlier, Two-Plus-Four discussions will be part of a broader process beginning with inner-German contacts,

~~SECRET~~

~~SECRET~~

-6-

and extending to a CSCE Summit. The approach we take on timing and content of the Two-Plus-Four discussions, therefore, should depend in part on the role we envisage for these other fora.

Ideally we would want to enter the Two-Plus-Four talks on the basis of clear Western agreement on objectives, and with some understanding with the Soviet Union on the shape of a mutually acceptable outcome. A sequence of events designed to achieve this result and to put Two-Plus-Four talks in a broader context might be:

-- The FRG and GDR negotiate a plan for political unification, and begin to implement economic and monetary union.

-- NATO agrees upon a concept for German participation in the Alliance, and the Alliance's participation in the defense of Germany.

-- The EC agrees upon arrangements for the incorporation of the GDR.

-- The EC and NATO agree upon the role of a CSCE Summit as it relates to unification.

~~SECRET~~

~~SECRET~~

-7-

-- Bilateral US-Soviet (and FRG-Soviet) discussions promote Soviet acceptance of these basic concepts. Shevardnadze's April visit to Washington offers an opportunity to begin this process.

-- Two-Plus-Four discussions produce agreement upon the borders of a united Germany, on Berlin, and on special security arrangements for East Germany.

-- Germany and the Soviet Union sign bilateral agreements replacing existing Soviet-GDR accords on trade, and on the status of Soviet forces in East Germany.

-- A bilateral German-Polish accord, perhaps with four power participation, affirms the German-Polish border.

-- A CSCE Summit welcomes German unification.

-- German-Soviet talks, perhaps complemented by CFE II negotiations provide the basis for full Soviet troop withdrawals from Germany.

This scenario assumes, perhaps optimistically, that inner-German, EC and NATO consultations can quickly lay the basis for a common Western approach to unification and that the Soviets can be brought to accept the basic lines of this Western approach.

~~SECRET~~

~~SECRET~~

-8-

It is possible that we may feel compelled to convene substantive Two-Plus-Four talks before these basic components of intra-Western and East-West agreement can be put in place. Under the intense strain of domestic politics, out of mistrust of some of its Allies, and from a desire to maintain flexibility, the FRG may prove unwilling to go through a meaningful process of forging an Alliance consensus around a common approach to the security issue of unification. We may at the same time come under great pressure from the Soviet side to move to the Two-Plus-Four forum before we have achieved any agreement with them over its ~~54th~~ outcome. Events in East Germany, possibly even a breakdown in order, could lend further urgency to a call for such Two-Plus-Four talks.

Early unprepared or only partially prepared Two-Plus-Four talks would have a low prospect of agreement on the fundamental issues raised by unification. Such a failure to achieve agreement might not halt the process of unification. Only a Soviet threat to use force would ensure that effect. But a failed Two-Plus-Four conference would create the perception of a sharp diplomatic crisis, would put further pressures on the FRG to accommodate Soviet concerns, and would have substantial, if unpredictable, effects on the German political process in the midst of what will be the most intense electoral year in Germany's postwar history.

~~SECRET~~

~~SECRET~~

-9-

These risks might be attenuated by establishing the Two-Plus-Four as a continuing, longer term process, and thereby dampening expectations of early results. Under such an approach one might intentionally schedule a high level Two-Plus-Four meeting to be held before GDR/FRG discussions had produced proposals for unification, precisely in order to establish the forum and put it in working order in circumstances where major agreements could not be expected. An early "preparatory" session of this sort would respond to Soviet, and perhaps UK and French desires to be involved, while helping reduce the prospect that a subsequent failed meeting might convey a sense of crisis and collapse of the process. On the other hand, such an early Two-Plus-Four meeting would provide the Soviets another platform to promote their substantive agenda, while at the same time such differences among the participants as would likely exist regarding the content and the purpose of Two-Plus-Four discussions would be highlighted. An early meeting would also precipitate a coalescence of the Soviet position on issues like NATO and the Allied troop presence along broader lines than might later be the case.

Another alternative would be to hold an early, entirely non-substantive lower level meeting of the Two-Plus-Four. A meeting of this sort at "Political Directors" level was

~~SECRET~~

~~SECRET~~

-10-

discussed in Ottawa. The British, French and FRG seem prepared to hold such a meeting before March 18. The GDR and Soviet Union are likely to prove agreeable. Before we agree to schedule such a meeting we may wish to establish some basic accord among the Western participants on the broad issues raised in this paper regarding the desired timing and content for substantive Two-Plus-Four talks, and how these fit into a broader Western plan for bilateral, NATO, EC, CSCE and CFE consultations.

~~SECRET~~

~~SECRET~~

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20508

February 26, 1990

MEMORANDUM FOR BRENT SCOWCROFT

FROM: ROBERT D. BLACKWILL *RB*

SUBJECT: Call to Gorbachev

1. 2
2. ϕ

I believe it would be a serious mistake for the President to discuss the Kohl visit during his call to Gorbachev today. The President was able at Camp David to advance Kohl's position significantly and explicitly to support full NATO membership for a united Germany. That is bad news for Gorbachev. I would therefore not force Gorbachev to react immediately to this news (with everyone listening) because the President raised it. Indeed, Gorbachev could interpret the President bringing up the Kohl talks (no matter how politely) as either a calculated or insensitive attempt to embarrass Gorbachev. Finally, if the President does discuss Germany's relationship with NATO with Gorbachev, what will Marlin say about the subject, what will Gerasimov then say, and so forth.

~~SECRET~~

DECLASSIFIED
PER E.O. 12958,
AS AMENDED
2008-0654-MR
3/22/2010 MM

BB
~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

1496

February 26, 1990

ACTION

MEMORANDUM FOR BRENT SCOWCROFT

THROUGH: ROBERT BLACKWILL *RB*

FROM: CONDOLEEZZA RICE *CR*

SUBJECT: Talking Points for the President's Telephone Call
to Gorbachev

Your memorandum to the President is at Tab I and talking points
are at Tab A. The points concern the Nicaraguan elections and
the Kohl visit.

CR for DP
David Pacelli concurs.

RECOMMENDATION

That you sign the memorandum to the President.

Attachments

Tab I Memorandum to President
Tab A Talking Points

~~CONFIDENTIAL~~

Declassify on: OADR

~~CONFIDENTIAL~~

DECLASSIFIED
E.O. 12958, SEC 3.5(B)
WHITE HOUSE GUIDELINES, AUGUST 28, 1997
BY *BAX* NARA, DATE *9/10/03*

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

1496

THE WHITE HOUSE
WASHINGTON

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: BRENT SCOWCROFT

SUBJECT: Phone Call to Gorbachev

Purpose

To thank Gorbachev for Soviet support of the free and fair elections that have just taken place in Nicaragua; to brief him on your visit with Chancellor Kohl this weekend.

Background

You may wish to thank Gorbachev for his support of the process in Nicaragua and tell him that you look forward to working with the Soviet Union toward an orderly transfer of power. The call will also give you an opportunity to inform Gorbachev of the central themes of your discussions with Kohl this weekend.

RECOMMENDATION

That you call Gorbachev and discuss the Nicaraguan elections and your meetings with Chancellor Kohl drawing upon the talking points at Tab A.

Attachments

Tab A Talking Points to Gorbachev

cc: Vice President
Chief of Staff

~~CONFIDENTIAL~~

Declassify on: OADR

~~CONFIDENTIAL~~

DECLASSIFIED
PER E.O. 12958,
AS AMENDED

2008-0654-MR
3/22/2010 MM

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

TALKING POINTS FOR TELEPHONE CALL TO SOVIET
PRESIDENT GORBACHEV

- I want to talk with you about the outcome of the Nicaraguan elections. And then I would like to say a few words about the very good meetings that Chancellor Kohl and I held at Camp David.
- The Nicaraguan elections were conducted freely and fairly and that -- in and of itself -- was a tremendous victory for democracy and for the Nicaraguan people.
- We are, of course, delighted by Mrs. Chamorro's victory which is a major step forward for democratization in Central America.
- I want to thank you and the Soviet leadership for all that you did to encourage a free and fair electoral process.
- The Sandinista leadership is also to be congratulated for holding free and fair elections.
- I was heartened by the Sandinista's prompt concession of defeat -- which is a positive sign of their commitment to respect the will of the Nicaraguan people.
- All parties -- including the United States and the Soviet Union -- must now work together to ensure the orderly transfer of power and so that democracy can be established fully in Nicaragua.
- May I also tell you about my helpful conversation Chancellor Kohl this weekend.
- The FRG and the United States agree that German unity -- which has long been the aspiration of the German people -- is a positive development.

~~CONFIDENTIAL~~

Declassify on: OADR

~~CONFIDENTIAL~~

DECLASSIFIED
PER E.O. 12958,
AS AMENDED
2008-0654-MR
3/22/2010 MM

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

- We expressed our common goal of building a democratic and united Germany which -- in firm alliance with its long-standing allies and as a part of an increasingly integrated Europe -- will be one of the pillars of stability and peace in Europe for the long-term.
- The Chancellor and I agreed that the unified Germany should remain in NATO; that American troops will remain in Europe as long as the Europeans want them; and that there needs to be a special military status for the former territory of the GDR.
- The unification of Germany should not abridge the legitimate security interests of any state in Europe and the FRG is ready to work with its neighbors, the Soviet Union and its Allies to promote peace and stability in a rapidly changing Europe.
- We both agree that you have personally made a tremendous contribution to reconciliation in Europe through your respect for the will of the people of Eastern Europe.

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

~~SECRET~~

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

February 26, 1990

MEMORANDUM FOR BRENT SCOWCROFT

FROM: ROBERT D. BLACKWILL *RB*

SUBJECT: Call to Gorbachev

1.2
2.6

I believe it would be a serious mistake for the President to discuss the Kohl visit during his call to Gorbachev today. The President was able at Camp David to advance Kohl's position significantly and explicitly to support full NATO membership for a united Germany. That is bad news for Gorbachev. I would therefore not force Gorbachev to react immediately to this news (with everyone listening) because the President raised it. Indeed, Gorbachev could interpret the President bringing up the Kohl talks (no matter how politely) as either a calculated or insensitive attempt to embarrass Gorbachev. Finally, if the President does discuss Germany's relationship with NATO with Gorbachev, what will Marlin say about the subject, what will Gerasimov then say, and so forth.

~~SECRET~~

DECLASSIFIED
PER E.O. 12958,
AS AMENDED
2008-0654-MR
3/22/2010 MM

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

1496

February 26, 1990

ACTION

MEMORANDUM FOR BRENT SCOWCROFT

THROUGH: ROBERT BLACKWILL *RB*

FROM: CONDOLEEZZA RICE *CR*

SUBJECT: Talking Points for the President's Telephone Call
to Gorbachev

Your memorandum to the President is at Tab I and talking points
are at Tab A. The points concern the Nicaraguan elections and
the Kohl visit.

CR for DP
David Pacelli concurs.

RECOMMENDATION

That you sign the memorandum to the President.

Attachments

Tab I Memorandum to President
Tab A Talking Points

~~CONFIDENTIAL~~

Declassify on: OADR

~~CONFIDENTIAL~~

DECLASSIFIED
E.O. 12958, SEC 3.5(B)
WHITE HOUSE GUIDELINES, AUGUST 28, 1997
BY *BAH* NARA, DATE *9/10/03*

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

1496

THE WHITE HOUSE
WASHINGTON

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: BRENT SCOWCROFT
SUBJECT: Phone Call to Gorbachev

Purpose

To thank Gorbachev for Soviet support of the free and fair elections that have just taken place in Nicaragua; to brief him on your visit with Chancellor Kohl this weekend.

Background

You may wish to thank Gorbachev for his support of the process in Nicaragua and tell him that you look forward to working with the Soviet Union toward an orderly transfer of power. The call will also give you an opportunity to inform Gorbachev of the central themes of your discussions with Kohl this weekend.

RECOMMENDATION

That you call Gorbachev and discuss the Nicaraguan elections and your meetings with Chancellor Kohl drawing upon the talking points at Tab A.

Attachments

Tab A Talking Points to Gorbachev

cc: Vice President
Chief of Staff

~~CONFIDENTIAL~~

Declassify on: OADR

~~CONFIDENTIAL~~

DECLASSIFIED
PER E.O. 12958,
AS AMENDED

2008-0654-MR
3/22/2010 MM

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

TALKING POINTS FOR TELEPHONE CALL TO SOVIET
PRESIDENT GORBACHEV

- I want to talk with you about the outcome of the Nicaraguan elections. And then I would like to say a few words about the very good meetings that Chancellor Kohl and I held at Camp David.
- The Nicaraguan elections were conducted freely and fairly and that -- in and of itself -- was a tremendous victory for democracy and for the Nicaraguan people.
- We are, of course, delighted by Mrs. Chamorro's victory which is a major step forward for democratization in Central America.
- I want to thank you and the Soviet leadership for all that you did to encourage a free and fair electoral process.
- The Sandinista leadership is also to be congratulated for holding free and fair elections.
- I was heartened by the Sandinista's prompt concession of defeat -- which is a positive sign of their commitment to respect the will of the Nicaraguan people.
- All parties -- including the United States and the Soviet Union -- must now work together to ensure the orderly transfer of power and so that democracy can be established fully in Nicaragua.
- May I also tell you about my helpful conversation Chancellor Kohl this weekend.
- The FRG and the United States agree that German unity -- which has long been the aspiration of the German people -- is a positive development.

~~CONFIDENTIAL~~

Declassify on: OADR

~~CONFIDENTIAL~~

DECLASSIFIED
PER E.O. 12958,
AS AMENDED

2008-0654-MR
3/22/2010 MM

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

- We expressed our common goal of building a democratic and united Germany which -- in firm alliance with its long-standing allies and as a part of an increasingly integrated Europe -- will be one of the pillars of stability and peace in Europe for the long-term.
- The Chancellor and I agreed that the unified Germany should remain in NATO; that American troops will remain in Europe as long as the Europeans want them; and that there needs to be a special military status for the former territory of the GDR.
- The unification of Germany should not abridge the legitimate security interests of any state in Europe and the FRG is ready to work with its neighbors, the Soviet Union and its Allies to promote peace and stability in a rapidly changing Europe.
- We both agree that you have personally made a tremendous contribution to reconciliation in Europe through your respect for the will of the people of Eastern Europe.

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

~~SECRET~~

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20508

February 26, 1990

MEMORANDUM FOR BRENT SCOWCROFT

FROM: ROBERT D. BLACKWILL *RB*

SUBJECT: Call to Gorbachev

I believe it would be a serious mistake for the President to discuss the Kohl visit during his call to Gorbachev today. The President was able at Camp David to advance Kohl's position significantly and explicitly to support full NATO membership for a united Germany. That is bad news for Gorbachev. I would therefore not force Gorbachev to react immediately to this news (with everyone listening) because the President raised it. Indeed, Gorbachev could interpret the President bringing up the Kohl talks (no matter how politely) as either a calculated or insensitive attempt to embarrass Gorbachev. Finally, if the President does discuss Germany's relationship with NATO with Gorbachev, what will Marlin say about the subject, what will Gerasimov then say, and so forth.

~~SECRET~~

DECLASSIFIED
PER E.O. 12958,
AS AMENDED

2008-0654-MR
03/22/2010 MM

~~CONFIDENTIAL~~

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

February 26, 1990

ACTION

MEMORANDUM FOR BRENT SCOWCROFT

THROUGH: ROBERT BLACKWILL

FROM: PHILIP ZELIKOW *PZ*

SUBJECT: Talking Points for Presidential Calls to Foreign
Leaders about His Meetings with Chancellor Kohl

We understand that the President may wish to call several foreign leaders to discuss his conversations with Chancellor Kohl. We have included talking points welcoming the election outcome in Nicaragua as well. Suggested talking points are attached at Tab I.

Bill Pryce concurs.

RECOMMENDATION

That you forward the attached talking points to the President for his use, if needed, in debriefing foreign leaders about his meetings with Chancellor Kohl.

Attachment

Tab I Talking Points for Presidential Phone Calls

DECLASSIFIED
PER E.O. 12958,
AS AMENDED

2008-0654-MR
03/22/2010 MM

~~CONFIDENTIAL~~

POINTS TO BE MADE IN TELEPHONE CALLS
WITH FOREIGN LEADERS

Visit with Kohl

- I just wanted to give you a readout on my meetings this weekend with Chancellor Kohl.
- The discussions went very well. Helmut believes German unification is likely to accelerate after the March 18 elections but is uncertain exactly what would occur then. The Chancellor deeply wants an orderly process of unification, but is worried about a mass exodus from the GDR after March 18, or that the new East German government might simply declare itself part of the FRG.
- The Chancellor made it clear that he believes the process of German unification must be and will remain embedded in the EC and NATO. He stressed his desire to accelerate EC integration.
- Helmut was prepared to commit himself specifically to support full membership of a unified Germany in NATO, including participation in its military structures.
- He also left no doubt of his willingness to allow U.S. forces to remain stationed in the Federal Republic.
- I also explained to Helmut at length why the deployment of U.S. nuclear weapons on German soil was a necessity to underpin the continued presence of U.S. troops in Europe.
- Helmut warned that the SNF issue would come back to the fore in this election year in the FRG.

~~CONFIDENTIAL~~

DECLASSIFIED
PER E.O. 12958,
AS AMENDED

2008-0654-MR
03/22/2010 MM

~~CONFIDENTIAL~~

- I explained my view that, after the two Germanys have made progress in deciding the internal aspects of unification, the Two Plus Four should work out the details of giving up Four Power rights and responsibilities for Germany as a whole and for Berlin. We agreed that security arrangements for the former territory of the GDR should take into account the legitimate interests of Germany's neighbors, including the Soviet Union.
- Helmut and I agreed that we had to keep NATO fully involved in the security dimensions of the Two Plus Four talks and that we had to make a special effort to reassure our smaller Allies that they would not be left out of the process.
- On the issue of Polish borders, I made clear, in my press conference yesterday, that the United States respects the provisions of the Helsinki Final Act regarding the inviolability of current borders in Europe, and that the United States formally recognizes the current German-Polish border. I also said that no agreement would ever be reached that affects the Polish borders without Polish involvement. But I do not believe Poland should be a participant in the Two Plus Four discussions.
- Helmut's public stance is more careful, both because of legal issues and German domestic politics. But he did say, at the press conference yesterday, that he has no intention of linking the question of German national unity with changes of existing borders.

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

Central America

- I am very pleased about the news from Nicaragua. It appears that our pressure to insure that the elections were free and fairly conducted paid off -- the Nicaraguan people finally are being heard.

- If present trends continue and Chamorro is the winner, we must watch closely to see that the Sandinista army and security services respect this outcome and submit to democratic authority.

ORIGINAL

INITIAL HERE
APPROV *10/1* DRAFT *SKP*
CLEAR 1 *SKP* 2 *SKP*
3 *SKP* 4 *SKP*
5 *SKP* 6 *SKP*
7 — 8

316

~~SECRET~~

48005

EUR/SOV:SKPIFER
03/06/90 79806 SESOVML 825
C:RZOELLICK

EUR/SOV:AVERSHOBW
EUR:JFDOBBINS
C:NBIURNS
NSC:

EUR/CE:PSHOSTAL
P:EEDELMAN
S/P:JHOLMES
S/S:



IMMEDIATE
PARIS IMMEDIATE
IMMEDIATE
TOKYO PRIORITY

MOSCOW, BONN IMMEDIATE, LONDON IMMEDIATE,
EMBBERLIN, USBERLIN IMMEDIATE, USNATO IMMEDIATE.

3/7/90
1866

EXDIS

E.O. 12356: DECL: OADR

TAGS: PREL, GE, GC, BZ, UR

SUBJECT: "TWO-PLUS-FOUR" CONSULTATIONS

REFS: (A) STATE 70450
 (B) MOSCOW 7532
 (C) MOSCOW 7072
 (D) STATE 68751

Brent -- We have
revised an earlier state
draft to produce this
message. I believe it
is now OK, but I want
you to clear it.
BS Blackwell

1. ~~SECRET~~ -- ENTIRE TEXT.

2. FOR MOSCOW: IN RESPONSE TO MESSAGE DELIVERED BY
SOVIET AMBASSADOR DUBININ TO UNDER SECRETARY KIMMITT ON
MARCH 5 PROPOSING "TWO-PLUS-FOUR" CONSULTATIONS IN GENEVA
ON MARCH 12 OR 13 (SEPTTEL). EMBASSY SHOULD IMMEDIATELY
MAKE FOLLOWING POINTS TO APPROPRIATE MFA OFFICIALS:

-- AMBASSADOR DUBININ ON MARCH 5 CONVEYED TO UNDER
SECRETARY KIMMITT THE SOVIET PROPOSAL FOR A MEETING OF
THE "TWO-PLUS-FOUR" AT THE EXPERTS LEVEL IN GENEVA ON
MARCH 12 OR 13.

~~SECRET~~

DECLASSIFIED
PER E.O. 12958,
AS AMENDED

2008-0654-MR
03/22/2010 MM

-- WE HAD PREVIOUSLY RECEIVED A SIMILAR PROPOSAL FROM THE FRG: THE WEST GERMAN GOVERNMENT HAS PROPOSED A "TWO-PLUS-FOUR" MEETING AT THE POLITICAL DIRECTORS LEVEL IN BONN ON MARCH 24.

-- OUR UNDERSTANDING IS THAT THE MARCH 24 MEETING WOULD BE PRELIMINARY AND PROCEDURAL, AIMED AT DISCUSSING MODALITIES FOR LATER SUBSTANTIVE SESSIONS WHICH WOULD BEGIN AFTER THE MARCH 28 ELECTIONS IN THE GDR AND AFTER DISCUSSIONS BETWEEN THE GDR AND FRG HAVE PROGRESSED.

-- WE HAVE ACCEPTED THE FRG INVITATION. DEPARTMENT COUNSELOR ZOELLICK AND ASSISTANT SECRETARY SEITZ WILL ATTEND FOR THE U.S. SIDE.

-- WE UNDERSTAND THAT THE SOVIET GOVERNMENT HAS ALSO ACCEPTED THE FRG PROPOSAL.

END POINTS.

3. FOR BONN, LONDON AND PARIS: EMBASSIES SHOULD INFORM MOST GOVERNMENTS AND THE BONN GROUP OF THE ABOVE RESPONSE TO THE SOVIET PROPOSAL TO MEET IN GENEVA. EMBASSIES SHOULD ALSO SHARE WITH MOST GOVERNMENT OFFICIALS THE POINTS BELOW THAT WOULD FORM OUR PROPOSED RESPONSE TO THE SHEVARDNAZE LETTER (REF B) PROPOSING A MECHANISM FOR MEETINGS OF THE "SIX" IN THE EVENT OF "CERTAIN UNFORESEEN CIRCUMSTANCES." WE WOULD APPRECIATE EARLY REACTIONS, AS WE BELIEVE IT IS IMPORTANT TO ANSWER THE LETTER AS SOON AS POSSIBLE. BEGIN PROPOSED POINTS:

-- WE HAVE CAREFULLY CONSIDERED FOREIGN MINISTER SHEVARDNAZE'S LETTER PROPOSING A PROCEDURE FOR CONVENING A MEETING OF THE "TWO-PLUS-FOUR" ON AN URGENT BASIS IN THE EVENT OF "CERTAIN UNFORESEEN CIRCUMSTANCES."

-- WE BELIEVE IT IS IMPORTANT THAT THE FRG, GDR, U.S., UK, FRANCE AND USSR CONSULT CLOSELY ON THE EXTERNAL ASPECTS OF THE ESTABLISHMENT OF GERMAN UNITY. TO ENSURE THAT THE PROCESS PROCEEDS SMOOTHLY AND TAKES FULL ACCOUNT OF THE LEGITIMATE INTERESTS OF ALL CONCERNED PARTIES.

-- WE FURTHER BELIEVE THAT THE "TWO-PLUS-FOUR" ARRANGEMENT AGREED IN OTTAWA ESTABLISHED THE RIGHT MECHANISM FOR SUCH CONSULTATIONS.

NSC Director
Condoleezza Rice

~~SECRET~~

WASHFAX RECEIPT

3

-- AS YOU KNOW, THE FRG WILL BE HOLDING A PRELIMINARY "TWO-PLUS-FOUR" MEETING AT THE POLITICAL DIRECTORS LEVEL ON MARCH 14. THIS WOULD BEGIN THE "TWO-PLUS-FOUR" CONSULTATIVE PROCESS WITH A DISCUSSION OF PROCEDURAL MODALITIES THAT WOULD APPLY FOR LATER SUBSTANTIVE EXCHANGES.

-- WE ARE ALSO PREPARED TO AGREE IN PRINCIPLE TO AN ARRANGEMENT WHICH WOULD PERMIT A MORE RAPID EXCHANGE OF INFORMATION THAN THIS OR FUTURE "TWO-PLUS-FOUR" MEETINGS MIGHT ALLOW.

-- WE CANNOT, HOWEVER, AGREE WITH THE NOTION THAT, SHOULD ONE OF THE RELEVANT COUNTRIES CALL FOR A MEETING AND THERE BE NO AGREEMENT TO MEET WITHIN 12 HOURS, THAT COUNTRY WOULD HAVE FREEDOM TO ACT UNILATERALLY. SUCH A UNILATERAL APPROACH WOULD BE INAPPROPRIATE AND COULD UPSET OUR MUTUAL EFFORTS TO FACILITATE THE GERMAN UNIFICATION PROCESS IN A SMOOTH MANNER THAT TAKES ACCOUNT OF THE LEGITIMATE CONCERNS OF ALL RELEVANT PARTIES. THIS MEANS CLOSE CONSULTATION AND COORDINATED ACTIONS.

-- HOWEVER, IF UNDER SOME EXTRAORDINARY CIRCUMSTANCES, THE SOVIET FOREIGN MINISTRY WERE TO DETERMINE THAT IT WAS IMPORTANT TO CONVENE AN URGENT MEETING OF THE FRG, GDR, U.S., UK AND FRENCH AMBASSADORS IN MOSCOW ON THE GERMAN UNIFICATION PROCESS, WE WOULD BE PREPARED TO PARTICIPATE IN SUCH A MEETING, AND OUR AMBASSADOR WOULD CONVEY ANY SOVIET MESSAGES IMMEDIATELY TO WASHINGTON.

END POINTS. VV

CROSSHATCH

~~SECRET~~

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
07. Memorandum	To the Secretary of State re: Chancellor Kohl's Meeting with President [SENT FOR AGENCY REFERRAL] (3 pp.)	03/08/90	(b)(1)	S

Collection:

Record Group: Bush Presidential Records
Office: National Security Council
Series: Blackwill, Robert D.
Subseries: Subject File
WHORM Cat.:
File Location: [German Reunification 11/89-6/90] [2]

Date Closed: 9/15/2003	OA/ID Number: CF00182-021
FOIA/SYS Case #: 2001-1166-F	Appeal Case #:
Re-review Case #:	Appeal Disposition:
P-2/P-5 Review Case #:	Disposition Date:
AR Case #:	MR Case #:
AR Disposition:	MR Disposition:
AR Disposition Date:	MR Disposition Date:

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P-1 National Security Classified Information [(a)(1) of the PRA]
 P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
 P-3 Release would violate a Federal statute [(a)(3) of the PRA]
 P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
 P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
 P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

Freedom of Information Act - [5 U.S.C. 552(b)]

(b)(1) National security classified information [(b)(1) of the FOIA]
 (b)(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
 (b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
 (b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
 (b)(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
 (b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
 (b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
 (b)(9) Release would disclose geological or geophysical information

~~SECRET~~

~~SECRET~~

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

March 9, 1990

INFORMATION

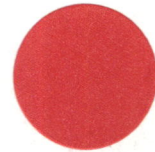
MEMORANDUM FOR BRENT SCOWCROFT

THROUGH: ROBERT BLACKWILL *RB*

FROM: PHILIP ZELIKOW *PZ*

SUBJECT: Discussions with State on Plans for Two Plus Four Meeting on March 14

Good



Not Sec Advisor
has seen

Bob Zoellick took the initiative to come meet with us (Blackwill, Rice, and Zelikow) in order to get our agreement on what would be discussed at the first Two Plus Four meeting, in Bonn on March 14. Zoellick met with us yesterday, March 8, accompanied by Dennis Ross, Ray Seitz, and Jim Dobbins.

We had a good discussion, overall. No one questioned that this first Two Plus Four meeting is only meant to discuss procedures and modalities for subsequent Two Plus Four meetings. We agreed that the US position on those procedures should be as follows:

- Language: use simultaneous translation.
- Location: defer to FRG's preference.
- Who Calls Meetings/Frequency: anyone can ask that a meeting be convened, subject to agreement by other participants. Blackwill argued that the US should seek to delay the process, as needed, through discussions on date, procedures, etc., rather than through an outright refusal to meet.
- Timing of Next Official-Level Meeting: The US will not commit itself on March 14 to any date for another Two Plus Four meeting.
- Timing of Ministerial Two Plus Four Meeting: The US opposes convening a Two Plus Four Ministerial until, at a minimum, after the Baker-Shevardnadze ministerial (April 4-6), and possibly after an April NATO ministerial and Presidential meetings with Mrs. Thatcher and, perhaps, with Mitterrand as well. This issue is discussed further below.
- Participation of Others (Poland) in Two Plus Four: No.
- Link between Two Plus Four and internal German progress toward unity: The Soviets want the Two Plus Four to keep the Germans from using the Article 23 mechanism for quick accession of GDR to the FRG, preferring to force the Germans

~~SECRET~~

Declassify on: OADR

~~SECRET~~

DECLASSIFIED
PER E.O. 12958,
AS AMENDED

2008-0654-JR 03/22/2010 JMM

~~SECRET~~

~~SECRET~~
2

- to have a negotiation between the two Germanys on a new constitution, thus delaying unification. The US will reject this Soviet position, and argue that the mechanism of internal unification is a matter for the Germans to decide.
- Must Two Plus Four decisions be by consensus?: The Soviets have proposed this in order to gain a formal veto power over all Two Plus Four subjects of discussion. US will oppose this proposal.
 - Chairmanship of meetings: US will defer to FRG's preference.
 - Recording of Two Plus Four meeting results: No written conclusions, no communiques, at least for now.
 - Form of a German 'peace settlement': The US is not ready to address this issue now.
 - Berlin: Two Plus Four will need to make decisions on devolution of Four-Power rights.

However, two potential problems arose during the meeting. Ross and Zoellick keep returning to their worry that we will bring Gorbachev down by being insufficiently responsive in the Two Plus Four. That concern, among other things, leads them to want more meetings, more frequently, and to discuss a wider range of subjects.

First, Zoellick clearly does not want to be pinned down on the pace of Two Plus Four meetings. He wanted to hold open the possibility of a Two Plus Four Ministerial anytime after the Baker-Shevardnadze meetings end (April 6). We argued that Two Plus Four Ministerial (and possibly official-level meetings on substantive issues) should only come after the Baker-Shevardnadze meeting in Washington (April 5-6); after the NATO ministerial to consult on Germany and review CFE issues (early to mid April); and after the President's meeting with Prime Minister Thatcher (April) and, if it occurs, after a possible meeting with President Mitterrand. Therefore, we proposed that the Two Plus Four Ministers would meet in May at the earliest. Zoellick agreed only that the Two Plus Four Ministerial should be after Shevardnadze's meeting with Baker and probably after the NATO ministerial. **Zoellick agreed that if Secretary Baker thinks he may wish to agree to a date for a Two Plus Four Ministerial during his talks in Namibia (March 20-21), Baker should review this issue with the President and ask for the necessary discretion before he leaves for Africa.**

Second, Zoellick wants the US to be able to engage in substantive discussions with the Soviets in the Two Plus Four forum on German membership in NATO and, perhaps, even the US nuclear presence in Germany. We believe the US preference should be to keep the Two Plus Four from reviewing Germany's Alliance commitments and NATO force presence. We can address Soviet concerns on these subjects

~~SECRET~~

~~SECRET~~

~~SECRET~~

~~SECRET~~

bilaterally or in arms control negotiations. Zoellick argued that the Soviets would portray us as obstructionist if we refused to discuss in detail at least the fundamental issue of German membership in NATO in the Two Plus Four, although he concurred that the group should not discuss the US nuclear presence in Germany. Zoellick later told Blackwill he could agree that the US position should be that German membership in NATO is not on the Two Plus Four agenda. Nevertheless, he felt we might be obliged to join in discussing the issue if other allies insisted (during the prior Quad consultations) on having such a discussion in the Two Plus Four.

Condi Rice *CR* concurs.

~~SECRET~~

~~SECRET~~

~~SECRET~~

~~SECRET~~

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

March 9, 1990

INFORMATION

MEMORANDUM FOR BRENT SCOWCROFT

THROUGH:

ROBERT BLACKWILL *RB*

FROM:

PHILIP ZELIKOW *PZ*

SUBJECT:

Discussions with State on Plans for Two Plus Four Meeting on March 14

Bob Zoellick took the initiative to come meet with us (Blackwill, Rice, and Zelikow) in order to get our agreement on what would be discussed at the first Two Plus Four meeting, in Bonn on March 14. Zoellick met with us yesterday, March 8, accompanied by Dennis Ross, Ray Seitz, and Jim Dobbins.

We had a good discussion, overall. No one questioned that this first Two Plus Four meeting is only meant to discuss procedures and modalities for subsequent Two Plus Four meetings. We agreed that the US position on those procedures should be as follows:

- Language: use simultaneous translation.
- Location: defer to FRG's preference.
- Who Calls Meetings/Frequency: anyone can ask that a meeting be convened, subject to agreement by other participants. Blackwill argued that the US should seek to delay the process, as needed, through discussions on date, procedures, etc., rather than through an outright refusal to meet.
- Timing of Next Official-Level Meeting: The US will not commit itself on March 14 to any date for another Two Plus Four meeting.
- Timing of Ministerial Two Plus Four Meeting: The US opposes convening a Two Plus Four Ministerial until, at a minimum, after the Baker-Shevardnadze ministerial (April 4-6), and possibly after an April NATO ministerial and Presidential meetings with Mrs. Thatcher and, perhaps, with Mitterrand as well. This issue is discussed further below.
- Participation of Others (Poland) in Two Plus Four: No.
- Link between Two Plus Four and internal German progress toward unity: The Soviets want the Two Plus Four to keep the Germans from using the Article 23 mechanism for quick accession of GDR to the FRG, preferring to force the Germans

~~SECRET~~

Declassify on: OADR

DECLASSIFIED

PER E.O. 12958,

AS AMENDED

2008-06-04-08 03:07/2010-04-01

~~SECRET~~

~~SECRET~~

to have a negotiation between the two Germanys on a new constitution, thus delaying unification. The US will reject this Soviet position, and argue that the mechanism of internal unification is a matter for the Germans to decide.

- Must Two Plus Four decisions be by consensus?: The Soviets have proposed this in order to gain a formal veto power over all Two Plus Four subjects of discussion. US will oppose this proposal.
- Chairmanship of meetings: US will defer to FRG's preference.
- Recording of Two Plus Four meeting results: No written conclusions, no communiques, at least for now.
- Form of a German 'peace settlement': The US is not ready to address this issue now.
- Berlin: Two Plus Four will need to make decisions on devolution of Four-Power rights.

However, two potential problems arose during the meeting. Ross and Zoellick keep returning to their worry that we will bring Gorbachev down by being insufficiently responsive in the Two Plus Four. That concern, among other things, leads them to want more meetings, more frequently, and to discuss a wider range of subjects.

First, Zoellick clearly does not want to be pinned down on the pace of Two Plus Four meetings. He wanted to hold open the possibility of a Two Plus Four Ministerial anytime after the Baker-Shevardnadze meetings end (April 6). We argued that Two Plus Four Ministerial (and possibly official-level meetings on substantive issues) should only come after the Baker-Shevardnadze meeting in Washington (April 5-6); after the NATO ministerial to consult on Germany and review CFE issues (early to mid April); and after the President's meeting with Prime Minister Thatcher (April) and, if it occurs, after a possible meeting with President Mitterrand. Therefore, we proposed that the Two Plus Four Ministers would meet in May at the earliest. Zoellick agreed only that the Two Plus Four Ministerial should be after Shevardnadze's meeting with Baker and probably after the NATO ministerial. **Zoellick agreed that if Secretary Baker thinks he may wish to agree to a date for a Two Plus Four Ministerial during his talks in Namibia (March 20-21), Baker should review this issue with the President and ask for the necessary discretion before he leaves for Africa.**

Second, Zoellick wants the US to be able to engage in substantive discussions with the Soviets in the Two Plus Four forum on German membership in NATO and, perhaps, even the US nuclear presence in Germany. We believe the US preference should be to keep the Two Plus Four from reviewing Germany's Alliance commitments and NATO force presence. We can address Soviet concerns on these subjects

~~SECRET~~

~~SECRET~~

~~SECRET~~₃

bilaterally or in arms control negotiations. Zoellick argued that the Soviets would portray us as obstructionist if we refused to discuss in detail at least the fundamental issue of German membership in NATO in the Two Plus Four, although he concurred that the group should not discuss the US nuclear presence in Germany. Zoellick later told Blackwill he could agree that the US position should be that German membership in NATO is not on the Two Plus Four agenda. Nevertheless, he felt we might be obliged to join in discussing the issue if other allies insisted (during the prior Quad consultations) on having such a discussion in the Two Plus Four.

Condi Rice *CR* concurs.

~~SECRET~~

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
10. Memorandum	From Robert Blackwill to Brent Scowcroft Re: Letter from Manfred Woerner on SNF [SENT FOR AGENCY REFERRAL] (1 pp.)	03/14/90	(b)(1)	S

Collection:

Record Group: Bush Presidential Records

Office: National Security Council

Series: Blackwill, Robert D.

Subseries: Subject File

WHORM Cat.:

File Location: [German Reunification 11/89-6/90] [2]

**Document Partially Declassified
(Copy of Document Follows)**

By MM (NLGB) on 03/22/2010

Date Closed: 9/15/2003

OA/ID Number: CF00182-021

FOIA/SYS Case #: 2001-1166-F

Appeal Case #:

Re-review Case #:

Appeal Disposition:

P-2/P-5 Review Case #:

Disposition Date:

AR Case #:

MR Case #: 2008-0654-MR(515)

AR Disposition:

MR Disposition: Released in Part

AR Disposition Date:

MR Disposition Date: 3/22/2010

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

P-1 National Security Classified Information [(a)(1) of the PRA]
P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P-3 Release would violate a Federal statute [(a)(3) of the PRA]
P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

(b)(1) National security classified information [(b)(1) of the FOIA]
(b)(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
(b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
(b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
(b)(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
(b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
(b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
(b)(9) Release would disclose geological or geophysical information

~~SECRET~~

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

①

3/14/90
1630

March 14, 1990

Brent -- You will see
Woerner's ideas are
along the lines of
option 4 in our SNF
paper.

RB Blackwill

INFORMATION

MEMORANDUM FOR BRENT SCOWCROFT

FROM: ROBERT BLACKWILL

SUBJECT: Letter from Manfred Woerner on SNF

While I was at Ebenhausen on March 9-10, Manfred Woerner handed me a letter he had prepared for you on Lance modernization and the future of SNF. He asked that this letter be seen only by myself, you, and the President. The letter is attached at Tab I.

(b) (1)

Attachment

Tab I Letter to you from Manfred Woerner

~~SECRET/SENSITIVE~~

Declassify on: OADR

DECLASSIFIED IN PART
PER E.O. 12958, AS AMENDED

2008-0654-MR
DL 3/22/10

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
11a. Memorandum	From Robert Blackwill to Brent Scowcroft Re: Letter from Manfred Woerner on SNF [SENT FOR AGENCY REFERRAL] (1 pp.)	03/14/90	(b)(1)	S

Collection:

Record Group: Bush Presidential Records
Office: National Security Council
Series: Blackwill, Robert D.
Subseries: Subject File
WHORM Cat.:
File Location: [German Reunification 11/89-6/90] [2]

Document Partially Declassified
(Copy of Document Follows)
 By MM (NLGB) on 03/22/2010

Date Closed:	9/15/2003	OA/ID Number:	CF00182-021
FOIA/SYS Case #:	2001-1166-F	Appeal Case #:	
Re-review Case #:		Appeal Disposition:	
P-2/P-5 Review Case #:		Disposition Date:	
AR Case #:		MR Case #:	2008-0654-MR(516/515)
AR Disposition:		MR Disposition:	Released in Part
AR Disposition Date:		MR Disposition Date:	3/22/2010

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

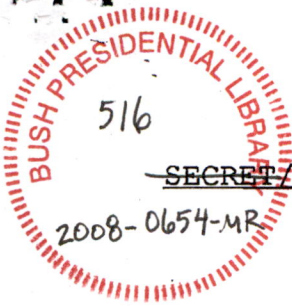
Freedom of Information Act - [5 U.S.C. 552(b)]

P-1 National Security Classified Information [(a)(1) of the PRA]
 P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
 P-3 Release would violate a Federal statute [(a)(3) of the PRA]
 P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
 P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
 P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

(b)(1) National security classified information [(b)(1) of the FOIA]
 (b)(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
 (b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
 (b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
 (b)(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
 (b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
 (b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
 (b)(9) Release would disclose geological or geophysical information



~~SECRET~~

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

①

3/14/90
1630

March 14, 1990

INFORMATION

MEMORANDUM FOR BRENT SCOWCROFT

FROM: ROBERT BLACKWILL

SUBJECT: Letter from Manfred Woerner on SNF

Brent -- You will see
Woerner's ideas are
along the lines of
option 4 in our SNF
paper.

RB Blackwill

While I was at Ebenhausen on March 9-10, Manfred Woerner handed me a letter he had prepared for you on Lance modernization and the future of SNF. He asked that this letter be seen only by myself, you, and the President. The letter is attached at Tab I.

(b) (1)

Attachment
Tab I Letter to you from Manfred Woerner

~~SECRET/SENSITIVE~~
Declassify on: OADR

DECLASSIFIED IN PART
PER E.O. 12958, AS AMENDED
2010-0654-MR
@ 3/22/10

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
11b. Letter	From Manfred Worner to Brent Scowcroft re: SNF (2 pp.)	03/07/90	(b)(1)	C

Collection:

Record Group: Bush Presidential Records
Office: National Security Council
Series: Blackwill, Robert D.
Subseries: Subject File
WHORM Cat.:
File Location: [German Reunification 11/89-6/90] [2]

Date Closed: 9/15/2003	OA/ID Number: CF00182-021
FOIA/SYS Case #: 2001-1166-F	Appeal Case #:
Re-review Case #:	Appeal Disposition:
P-2/P-5 Review Case #:	Disposition Date:
AR Case #:	MR Case #:
AR Disposition:	MR Disposition:
AR Disposition Date:	MR Disposition Date:

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P-1 National Security Classified Information [(a)(1) of the PRA]
 P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
 P-3 Release would violate a Federal statute [(a)(3) of the PRA]
 P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
 P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
 P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

Freedom of Information Act - [5 U.S.C. 552(b)]

(b)(1) National security classified information [(b)(1) of the FOIA]
 (b)(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
 (b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
 (b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
 (b)(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
 (b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
 (b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
 (b)(9) Release would disclose geological or geophysical information

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
12a. Memorandum	From Robert Blackwill to Brent Scowcroft Re: Letter from Manfred Woerner on SNF [SENT FOR AGENCY REFERRAL] (1 pp.)	03/14/90	(b)(1)	S

Collection:

Record Group: Bush Presidential Records

Office: National Security Council

Series: Blackwill, Robert D.

Subseries: Subject File

WHORM Cat.:

File Location: [German Reunification 11/89-6/90] [2]

**Document Partially Declassified
(Copy of Document Follows)**

By MM (NLGB) on 03/22/2010

Date Closed: 9/15/2003	OA/ID Number: CF00182-021
FOIA/SYS Case #: 2001-1166-F	Appeal Case #:
Re-review Case #:	Appeal Disposition:
P-2/P-5 Review Case #:	Disposition Date:
AR Case #:	MR Case #: 2008-0654-MR(518/515)
AR Disposition:	MR Disposition: Released in Part
AR Disposition Date:	MR Disposition Date: 3/22/2010

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

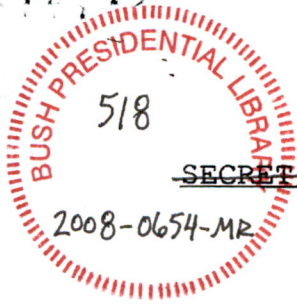
- P-1 National Security Classified Information [(a)(1) of the PRA]
- P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P-3 Release would violate a Federal statute [(a)(3) of the PRA]
- P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

Freedom of Information Act - [5 U.S.C. 552(b)]

- (b)(1) National security classified information [(b)(1) of the FOIA]
- (b)(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- (b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- (b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- (b)(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- (b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- (b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- (b)(9) Release would disclose geological or geophysical information



~~SECRET~~

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

①

3/14/90
1630

~~SECRET/SENSITIVE~~

March 14, 1990

INFORMATION

MEMORANDUM FOR BRENT SCOWCROFT

FROM: ROBERT BLACKWILL

SUBJECT: Letter from Manfred Woerner on SNF

Brent -- You will see
Woerner's ideas are
along the lines of
option 4 in our SNF
paper.

RB Blackwill

While I was at Ebenhausen on March 9-10, Manfred Woerner handed me a letter he had prepared for you on Lance modernization and the future of SNF. He asked that this letter be seen only by myself, you, and the President. The letter is attached at Tab I.

(b) (1)

Attachment
Tab I Letter to you from Manfred Woerner

~~SECRET/SENSITIVE~~
Declassify on: OADR

DECLASSIFIED IN PART
PER E.O. 12958, AS AMENDED
2010-0654-MR
EOL 3/22/10

Should
Read before
dinner on
Sun. 5/6

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
12b. Letter	From Manfred Worner to Brent Scowcroft re: SNF (2 pp.)	03/07/90	(b)(1)	C

Collection:

Record Group: Bush Presidential Records
Office: National Security Council
Series: Blackwill, Robert D.
Subseries: Subject File
WHORM Cat.:
File Location: [German Reunification 11/89-6/90] [2]

Date Closed: 9/15/2003	OA/ID Number: CF00182-021
FOIA/SYS Case #: 2001-1166-F	Appeal Case #:
Re-review Case #:	Appeal Disposition:
P-2/P-5 Review Case #:	Disposition Date:
AR Case #:	MR Case #:
AR Disposition:	MR Disposition:
AR Disposition Date:	MR Disposition Date:

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P-1 National Security Classified Information [(a)(1) of the PRA]
 P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
 P-3 Release would violate a Federal statute [(a)(3) of the PRA]
 P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
 P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
 P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

Freedom of Information Act - [5 U.S.C. 552(b)]

(b)(1) National security classified information [(b)(1) of the FOIA]
 (b)(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
 (b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
 (b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
 (b)(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
 (b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
 (b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
 (b)(9) Release would disclose geological or geophysical information

Agenda for
April 10 Quad Meeting

I. ISSUES RELATED TO GERMAN UNIFICATION

A. Progress Reports

- o You could open by asking Kastrup for a status report on GEMU and cabinet deliberations on security issues.
- o He and others may wish to volunteer the outcome of recent discussions with the Soviets and with the GDR.
- o You will want to offer a Baker-Shevardnadze readout.

B. Two-Plus-Four Modalities

- o At least four issues should be addressed:
 - Ministerial venue
 - Formation of working groups (Kastrup Berlin Proposal)
 - Structuring eventual Polish participation
 - the next Two-Plus-Four official-level agenda

C. Form of a Settlement (Our Paper)

- o You should distribute copies of our paper, noting that it represents an attempt to evaluate, as neutrally as possible, the avenues open for settlement of various issues.
 - The background section of the book contains a paper on the USG-preferred form of settlement.)

D. Berlin Issues

- o We have provided you with discussion papers on two Berlin-related issues: aviation and voting rights.
 - Although other Berlin-related issues are covered in the background papers, these are the two issues on which near-term Allied unity is needed.

E. Political-Military Issues

- o You should seek One-Plus-Three agreement on a strategy for Two-plus-Four discussions of security issues.
- o Equally, you should encourage consideration of when and how security aspects of unification should be addressed within the broader Alliance.

II. LITHUANIA

- o Your primary purpose will be to take soundings to ensure that the Four are on track with one another in our policy approach toward the situation in Lithuania.
- o Your interlocutors will be interested in the tone and content of Shevardnadze's discussions on this subject with the President and the Secretary.

III. CSCE SUMMIT

- o With support building for early preparations for a CSCE prepcon, you will want to urge a more measured approach, developing a unified approach within NATO before moving to broader CSCE-wide preparations.

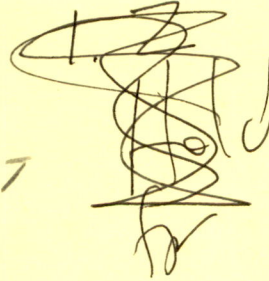
IV. SOUTH AFRICA

- o You may wish to turn to John Weston to take the lead in assessing the situation in South Africa. He no doubt will call for a more positive international response to De Klerk's moves -- a call directed more at the FRG and France than at us.
- o A key development not covered in your book is that the derailed talks between the ANC and the SAG are now back on track for May 3-5.

EUR/RPM: MGuest
4/7/90 SERPMP-628 x8050

BB

your SET



1. Z

2. Return RB
4/16
(really)

MK/9

~~SECRET/SENSITIVE~~

TRIP OVERVIEW

MEETING WITH KEY ALLIES (APRIL 10)
and
NATO BRIEFING (APRIL 11)

- o Your trip to Brussels falls at a key juncture both in the Two-Plus-Four process and with regard to the Alliance generally.
 - While the new GDR government sorts itself out, key Allies need to come to terms on a strategy for the Two-Plus Four.
 - As for NATO, your trip will allow you to guide Alliance consultations on a range of issues -- including developments in and with the Soviet Union, considerations surrounding an eventual CSCE summit, and the implications of German unification for the Alliance as a whole -- as the spring cycle of Ministerials approaches.
- o Even more than usual, your Alliance counterparts will be looking to you, at both the April 10 and 11 meetings, for leadership and the best possible sense of Washington's thinking on issues across the Alliance agenda.

April 10 One-Plus-Three Meeting

- o At your meeting with key Allies, you will want to hammer out common approaches to difficult issues that will be tackled in the Two-Plus-Four.
 - Lack of Allied agreement could allow the Soviets to exploit divisions, making it more difficult to steer Two-Plus-Four discussions in a constructive direction.
 - Your book addresses key issues, both procedural and substantive, on which the Four should seek agreement prior to the next official-level Two-Plus-Four.

~~SECRET/SENSITIVE~~

DECL: OADR

DECLASSIFIED
PER E.O. 12958,
AS AMENDED
2008-0654-MR
03/22/2010 MM

- o You will want in particular to press the Germans to be forthcoming about internal FRG thinking on the security ramifications of unification.
- o You also will want to develop a coordinated approach to how security-related German unification issues will be dealt with in the Alliance.
- o Aside from matters related to German unification, we wish to use this meeting for its traditional purpose of forging common approaches to other simmering problems.
 - Our pared-down agenda includes discussion of Lithuania, a CSCE Summit, and recent developments in South Africa.
- o You also will want to engage Kastrup privately on SS-23s in Eastern Europe, pressing him to take the Soviets to task over pre-INF Treaty transfers to the GDR, Czechoslovakia and Bulgaria.

April 11 NAC Briefing

- o Woerner has welcomed your willingness to brief the NAC on Baker/Shevardnadze. At the same time, he and others may express concern about the postponement of the Secretary's personal visit.
 - Woerner is likely to press for an early rescheduling in order to manage Allied concerns that Ministerial-level discussion of the effects of unification on NATO not be delayed.
 - Packaging that meeting, however, remains a delicate task. At the April 4 NAC, French and FRG permreps rejected our linking a rescheduled ministerial with the first Two-Plus-Four. The German noted that unification should be considered only in conjunction with other "architectural" issues, including a CSCE Summit and future arms control goals.
 - A useful "hook" for a rescheduled ministerial, if it takes place in early May as we propose in our scheduling memorandum, is as a pre-brief for the Secretary's May 15 Ministerial with Shevardnadze.
- o You may also wish to use your appearance at the NAC to address CSCE Summit issues, and should in any case be prepared to respond to questions by others.
 - In particular, you should reiterate our view that it would be premature to hold ministerial discussions of preparations at the Budapest Open Skies event, urging instead that attention focus on concluding CFE and arriving at a common approach to a summit within NATO.

Drafted: EUR/RPM: MGuest
x8050 4/6/90 SERPMP-645
Cleared: EUR: JDobbins
EUR: ATBohlen
EUR/RPM: RCaldwell
EUR/CE: JSeymour
EUR/P: BMcKinley

~~CONFIDENTIAL~~

MODALITIES FOR TWO-PLUS-FOUR

I. Where Should Ministerials Be Held?

- o This question was not addressed at the last Two-Plus-Four, although the decision to hold political level sessions in Bonn and Berlin may imply a precedent. The FRG will probably want Bonn and/or Berlin. Soviets may push for "neutral" location. UK and France may be open-minded.
- o We should support the FRG.

II. Berlin Working Group (Senat, Allies and FRG--Kastrup's proposal).

- o The Chancellery is unenthusiastic but acquiescent in Kastrup's proposal to set up a Berlin Working Group. It is now clear that the Working Group would act under Bonn Group jurisdiction and that the FRG would be represented in it. Kastrup now seems to intend that this group catalogue all the Allied laws in Berlin which may need to be replaced. This seems an acceptable and useful task to which we can agree.

III. Structuring Polish Participation

- o Kastrup has outlined to you and Zoellick a scenario for meeting the Poles' need for a treaty. The FRG would vet with the GDR proposed language for parliamentary and governmental declarations by each which would in turn form the basis to negotiate a treaty with Poland. Kastrup envisaged talks with the GDR, then the Poles, after which the FRG would present the proposal to the Two-plus-Four political level. He envisioned bringing the Poles to the second Two-Plus-Four ministerial.
- o The Poles, supported by the Soviets and perhaps the French and British, are likely to regard that scenario as too slow.
- o We can support the FRG proposal and method in principle but should encourage speedier timing and earlier inclusion of the Poles. At a minimum the next Two-Plus-Four official level meeting may have to announce an agreed time for the Poles to join the discussions.
- o You might suggest that the Poles join the political-level talks when the FRG presents the plan.

~~CONFIDENTIAL~~

DECLASSIFIED
PER E.O. 12958,
AS AMENDED
2008-0654-MR
03/22/2010 MM

~~CONFIDENTIAL~~

-2-

IV. Agenda for Next Two-plus-Four

- o At the first Two-plus-Four meeting, discussion of the overall agenda was not complete. A fifth item might be the question of a form of settlement. The Soviets may press again for acceptance of a "peace treaty" in that regard and may insist on "synchronization" with CSCE and on economic issues as agenda topics. The GDR may repeat its request for an item on property. The French and British probably support our views, although the French may be sympathetic to finding some CSCE cloak. To show momentum and prepare a basis for the first ministerial, it would be good for the next Two-plus-Four to get onto substance.
- o Agreement to an agenda item on the form of a settlement is essential, since so much flows from its resolution.
- o We cannot accept the Soviet "peace treaty" proposal.
 - "Synchronization" with CSCE would risk tying up the process; other ways can be found to provide a CSCE cloak when the time comes. Some more neutral term such as "relationship" with activities in other fora might be acceptable.
- o Genscher would like Two-plus-Four completion before a CSCE Summit. So would we, but this may be unrealistic. We would want an eventual Summit to take note of, rather than opening up for consideration, the progress made toward unification by the time of the Summit.
- o Property is an internal German matter, and the Soviets' economic concerns should be resolved bilaterally.
- o We should agree to move the next Two-plus-Four into substance; discussion of a form of settlement might be a good way to start.

DRAFTED: EUR/CE:JSeymour
4/6/90 x72005 SECE 1285
CLEARED: EUR:BMcKinley
EUR:JDobbins

~~CONFIDENTIAL~~

~~SECRET~~

DRAFT PREPARATORY PAPER:

OPTIONS FOR A SETTLEMENT ON GERMANY

General Introduction:

- o The minimum required for a settlement on Germany is that the Four Powers terminate their retained rights and responsibilities. If they choose to do so, the Four Powers can exercise any of their rights before terminating them.
 - There is no requirement that the Four Powers actually exercise their rights before terminating them. Nor do the Four Powers have to act in the same manner on all rights. They could exercise one or more rights, while simply terminating (renouncing) others.
 - The Four Powers do not have to address each right individually. For any rights not exercised, an all-encompassing renunciation would suffice (e.g., the Four renounce "all other rights").
- o The language of a settlement must address in some fashion (generally or specifically) the Four Powers' reserved rights and responsibilities regarding Germany's unification, Germany's borders, a "settlement," and Berlin.
- o Four-Power rights and responsibilities are reflected in wartime and postwar Four-Power agreements. These include the London Protocol of 12 September 1944 (and its amendments of 14 November 1944 and 26 July 1945), as well as the Agreement on Control Machinery of 14 November 1944.
 - In the 5 June 1945 "Declaration Regarding the Defeat of Germany and the Assumption of Supreme Authority by the Allied Powers," the Four Powers assumed supreme authority for Germany. The Declaration also states that the Four Powers "will hereafter determine the boundaries of Germany or any part thereof and the status of Germany or of any area at present being part of German territory."
 - In the Potsdam Protocol of 1 August 1945 the Four Powers agreed that "final delimitation of the western frontier of Poland should await the peace settlement."

~~SECRET~~
DECL:OADR

DECLASSIFIED
PER E.O. 12958,
AS AMENDED
2008-0654-MK
12/15/08 KO

~~SECRET~~

-2-

- o Three-Power accords with the FRG subsequently delimited Western rights over Germany. In the "Convention on Relations between the Three Powers and the Federal Republic of Germany," which entered into effect on 5 May 1955, the Three expressly retained their "rights and responsibilities, heretofore exercised or held by them, relating to Berlin and Germany as a whole including the reunification of Germany and a peace settlement."
- The parties to the Relations Convention further agreed that "the final determination of the boundaries of Germany must await such settlement."
- o While terminating (or exercising) Four-Power rights, the Four Powers are not required to use a specific instrument. They can exchange notes or letters, sign agreements, etc.
- Since Four Power rights are original rights and derive from wartime agreements among the Four and from later agreements between the Four and the Germans, the only prescription for the form of the settlement is that the participants concur in the document (or documents) making up the settlement.

Issue I - A Settlement on Germany:

Discussion:

- o In reaching a final resolution of the German question, a central aspect is whether the document or documents result in a binding international agreement (i.e., a "treaty").
- o Under international law, the key factor in determining whether an agreement is binding is the intent of the parties as evidenced by: (1) the document's language (e.g., use of such words as "agreed"); (2) the specificity of the commitments incurred; and (3) the form (final clauses, signature blocks, entry into force dates, etc.).
- If an agreement is clear in describing the parties' obligations and deals with matters of sufficient weight to warrant a treaty, the form of the agreement becomes secondary.

~~SECRET~~

~~SECRET~~

-3-

- o Under international law, if a "settlement" is a binding agreement, it is a "treaty." However, the terms "Peace Treaty" and "Peace Settlement" imply somewhat different content. The primary task of the former is to secure the peace. A "settlement" document would more naturally address questions outstanding since the War, without necessarily implying that it is required to secure the peace.
- o Which issues would be covered by a "settlement" is a matter of choice for the participants. The only requirement for inclusion is that the participants all agree. For example, all reserved rights could be included in a single "settlement" document. Alternatively, each reserved right could be addressed in a totally separate document.
- o The Relations Convention uses the term "Peace Settlement." The Germans have been at peace, however, with the former members of the wartime coalition for decades. Thus, the precise term from the Relations Convention need not be used. This is particularly true in light of various bilateral and multilateral documents (e.g., the FRG-USSR treaty of 1970) which secure the peace. The Four Powers could simply reach a "settlement" which they interpret as covering the reserved right regarding a "Peace Settlement." There are many options for such a document (it could, for example, merely reaffirm the fact that peace exists or it need not mention "peace" at all). The Four could also address the other reserved rights and simply terminate their right regarding a "peace settlement."

Options:

1. The Four Powers terminate their right with regard to a "peace settlement" (without any other statement).
2. The Four Powers issue a statement or document observing the existence of peace or taking note of previous bilateral and multilateral documents which do so. They declare this to be the final exercise of their right with regard to a "peace settlement."
3. The Two-plus-Four participants agree that peace exists or take note of previous bilateral and multilateral documents which do so. The Four Powers declare this to be the final exercise of their right with regard to a "peace settlement."

~~SECRET~~

~~SECRET~~

-4-

4. The Two-plus-Four participants agree that peace exists or take note of previous bilateral and multilateral documents which do so, which they invite other European states and former members of the wartime alliance to sign. The Four Powers declare this to be the final exercise of their right with regard to a "peace settlement."
5. The Four Powers sign a "settlement on Germany" encompassing the devolution of Four-Power rights and responsibilities. The Four Powers declare that this "settlement" constitutes final exercise of all their reserved rights.
6. The Two-plus-Four participants sign a "settlement on Germany" encompassing the devolution of Four-Power rights and responsibilities. The Four Powers declare that this "settlement" constitutes final exercise of all their reserved rights.
7. The Two-plus-Four participants sign a "peace settlement" encompassing the devolution of Four-Power rights and responsibilities. The Four Powers declare that this "peace settlement" constitutes final exercise of their reserved rights.
8. The Two-plus-Four participants sign a "peace treaty." The Four Powers declare that this "peace treaty" constitutes final exercise of their reserved rights.

Issue II - Borders

Discussion:

- o The Four Powers can address some of Germany's borders specifically while making a general statement (or renunciation) regarding Four Power rights over the remainder. For example, the Four Powers can make an agreement or take note of a document referring to the German-Polish border without referring to other borders except in general terms.

Options:

1. The Four Powers terminate their right with regard to Germany's borders (without any other statement).
2. The Four Powers sign a document setting Germany's borders. They declare this to be the final exercise of their reserved right.

~~SECRET~~

~~SECRET~~

-5-

3. The Four Powers sign a document confirming or accepting other documents which set Germany's borders. They declare this to be the final exercise of their reserved right.
4. The Four Powers agree to a statement, note, or letter responding to German declaration(s), letter(s) or diplomatic note(s) affirming current borders. The Four Powers terminate their right.
5. The Four Powers become parties to legally binding documents regarding Germany's borders signed by Germany with other countries. The Four Powers declare this to be the final exercise of their reserved right.
6. The Two-plus-Four participants sign a document confirming Germany's borders. The Four Powers declare this to be the final exercise of their reserved right.

Issue III - Unification

Options:

1. The Four Powers terminate their right with regard to Germany's unification (without any other statement).
2. The Four Powers make a statement taking note of documents signed by the two Germanys on Germany's unification. They declare this to be the final exercise of their right with regard to unification.
3. The Four Powers approve via note, letter or agreement, a German declaration, note or letter made to them regarding unification. The Four Powers declare this to be the final exercise of their right.
4. The Two-plus-Four participants sign a legally binding document on Germany's unification, with or without conditions on borders, etc. The Four Powers declare this to be the final exercise of their reserved right.

Issue IV - Berlin

Options:

1. The Four Powers renounce all reserved rights and repeal all Allied legislation (including Allied Komandatura, Allied Control Council and Military Government legislation), thereby ending the city's occupation status.

~~SECRET~~

~~SECRET~~

-6-

2. The Four Powers renounce all reserved rights and repeal all Allied legislation, thereby ending the city's occupation status. In addition, the Three Allies bilaterally negotiate with a unified Germany new basing rights in Berlin and access to Berlin.
3. Berlin's occupation status is preserved for the period in which Soviet troops remain in the former territory of the GDR, and Four Powers retain those rights necessary to sustain their troop presence and access. The Three Allies or Four Power sign an agreement with Germany that these remaining rights will be renounced once Soviet troops depart Germany.

~~SECRET~~

~~SECRET~~

BERLIN: AVIATION

POINTS TO MAKE

1. We appear to be near a Western consensus on interim changes in the Berlin air regime for the period prior to unification and the termination of Four-Power rights.
2. As with Berlin voting, there is the question of the proper forum for approaching the Soviets. Aviation issues cut across all the categories. The only issues we need to discuss with the Soviets are the mechanics of Corridor operations and the fact that non-Allied carriers would be flying in the Corridors. We do not want to let the Soviets have a role in determining which non-Allied carriers fly.
3. There has already been agreement in Bonn for the Bonn Group, augmented by experts and supervised by the DCM Group, to begin working out the details of the FRG's aviation concept. At the appropriate time, this technical group could be called upon to support whatever interim and final arrangements are agreed upon among the four of us, between the two German states, and with the Soviets.
4. We are ready in principle for German and Third Country carriers to begin flying in the Corridors -- once we have Soviet agreement and suitable transitional arrangements have been worked out for Allied carriers.
5. (FOR KASTRUP ONLY) We agree that the situation of Pan Am presents particularly difficult problems. It would be very unfortunate if the Allied carrier that has provided the bulk of the Berlin air service from the Blockade to the present were to fail now that unification is finally at hand.

WATCH OUT FOR

The French want to put aviation in the Two-plus-Four forum. The others have expressed no preference. Lufthansa has been pushing this issue, but that is no reason to put it at the top of the Two-plus-Four agenda. We believe we can respond to the German desire to move forward on aviation by having the Three take the status issue of Corridor operations up with the Soviets directly -- if that is what the Germans prefer.

We are waiting for a German reaction to the Allies' recent response to the FRG's aviation concept paper. The Germans may even use this One-plus-Three meeting to agree to the Allies' general concerns about transitional arrangements protecting their carriers from Lufthansa's competition.

~~SECRET~~
DECL: OADR

DECLASSIFIED
PER E.O. 12958,
AS AMENDED
2008-0654-MK
12/15/08 KO

~~SECRET~~

-2-

BACKGROUND

1. We appear to be near a Western consensus on interim changes in the Berlin air regime for the period prior to unification and the termination of Four-Power rights.

We are waiting for the German reaction to the Allies' response on March 23 to the FRG's inner-German and Berlin aviation concept paper of February 8. The German paper proposed flights by non-Allied carriers in the Corridors and coordination with the GDR's airport outside Berlin at Schoenefeld. On March 23 the French suddenly joined the U.S. and the UK in agreeing to the FRG proposal. Initial indications are that the Germans in their response will agree to the Allies' request for the gradual introduction of Lufthansa service. The purpose of the Allies' request was to ensure a smooth transition for Allied air carriers.

2. As with Berlin voting, there is the question of the proper forum for approaching the Soviets. Aviation issues cut across all the categories. The only issues we need to discuss with the Soviets are the mechanics of Corridor operations and the fact that non-Allied carriers would be flying in the Corridors. We do not want to let the Soviets have a role in determining which non-Allied carriers fly.

The French have already gone on record in favor of putting Berlin aviation issues into Two-plus-Four. No strong preference has been expressed by the FRG, the UK, or ourselves. The original Bonn Group recommendation was for a direct Allied approach to the Soviets. The Germans in their initial reaction to the Allies' March 23 speaking note urged an early meeting with the Soviets to discuss the issues.

As with voting, there may be advantages to broaching the issue of non-Allied carriers' right to fly in the Corridors, first with the Soviets outside of Two-plus-Four. On the other hand, we believe many of the technical issues involved in such changes can best be handled if all Six are involved.

Technical issues related to the mechanics of Corridor operations, such as flight altitudes and coordination between Allied and GDR air traffic controllers, could perhaps best be handled by all six powers' technical experts. In the past we have avoided talking to the GDR about Berlin issues, including aviation, for status reasons. A Two-plus-Four mandate might get around this problem. On the other hand, technical issues can also be handled in parallel by the Allies with the Soviets and by the FRG with the GDR.

~~SECRET~~

~~SECRET~~

- 3 -

3. There has already been agreement in Bonn for the Bonn Group, augmented by experts and supervised by the DCM Group, to begin working out the details of the FRG's aviation concept. At the appropriate time, this technical group could be called upon to support whatever interim and final arrangements are agreed upon among the four of us, between the two German states, and with the Soviets.

The FRG, France, UK, and U.S. have already agreed to establish a reinforced Bonn Group to work out the details of the FRG aviation concept paper. This group's technical expertise could be called upon to support whatever aviation negotiations take place. From our point of view it is preferable to have an agreed Western (Allied/FRG) approach to aviation. The alternative, direct FRG-GDR negotiations, presents the Allies (and the Soviets) with faits accomplis -- even in this interim period when the Allies remain responsible for access to Berlin.

The problem to date has not been the FRG Government so much as Lufthansa, which has moved ahead on its own with the GDR airline Interflug. However, the FRG has not been willing to restrain Lufthansa. Lufthansa has even threatened to fly to Schoenefeld (which would not require Allied approval), if there is no movement on the aviation front.

If we are going to make changes in the Berlin air regime prior to unification, then there should be a Western consensus. The reinforced Bonn Group as a forum for working out the details of the FRG's aviation concept has the advantage for the Allies of making us a direct part of the German decision-making process. The group could also support any working groups that might be formed in connection with preparations for Two-plus-Four.

4. We are ready in principle for German and Third Country carriers to begin flying in the Corridors -- once we have Soviet agreement and suitable transitional arrangements have been worked out for Allied carriers.

The Germans may be unclear about when we envisage a start up for non-Allied carriers, including Lufthansa, to fly to Berlin. The main question is the Soviet attitude. However, all of the Allies have also requested German agreement to the gradual phasing-in of Lufthansa service to Berlin. Once there is agreement on these two points, we see German service beginning almost immediately -- certainly even before unification and the termination of Four-Power rights.

~~SECRET~~

~~SECRET~~

- 4 -

5. (FOR KASTRUP ONLY) We agree that the situation of Pan Am presents particularly difficult problems. It would be very unfortunate if the Allied carrier that has provided the bulk of the Berlin air service from the Blockade to the present were to fail now that unification is finally at hand.

The fate of U.S. carriers' service to Germany after unification is a bilateral matter that should not be talked about in the Quad.

Nor do we want to begin talking specifically about the fate of U.S. carriers after unification until the FRG has responded to the March 23 Allied Speaking Note and given assurances about pre-unification transitional arrangements for all Allied carriers.

On the margins, however, we should be prepared to remind the Germans that the interests of U.S. carriers will have to be taken into account.

The Germans are aware that Pan Am presents the most difficult problem. Under the Chicago Convention, a state cannot allow another state cabotage rights -- the right to carry internal passengers and freight -- without offering it to all states. When Germany unites, the current inner-German service that the Allied carriers provide will be cabotage. Pan Am, which provides the bulk of the inner-German service, cannot convert as easily as Air France and British Airways to using Berlin as a European hub. Moreover, U.S. carriers, unlike British and French, will be shut out of the intra-EC market after 1992.

The Germans believe transitional arrangements can be made for Air France and British Airways that will bridge any gap between unification and EC 1992. For cash-poor Pan Am, the only solution would seem to be a buyout or joint venture. Some of the costs in Pan Am's \$300 million price tag are high. Lufthansa has hinted that the FRG should pick up the tab. Lufthansa officials ask how can it justify paying for what it will get free anyway? The FRG is also not happy about adding to the costs of unification.

At this stage, we do not want to get into any hard bargaining with the FRG. However, we should make the general point that it will be bad public relations for unification if Pan Am goes under as a result.

~~SECRET~~

- Agreements between FRG/GDR and the Four Powers on transitional arrangements for Berlin aviation. Designed to give Allied carriers or Aeroflot (as well as Lufthansa and Interflug) framework for operations. (Might be negotiated either within or outside the Two-plus-Four framework.)

Other Issues to be Addressed

The continuation of the FRG renunciation of ABC weapons and other FRG treaty obligations need to be reconfirmed, probably through an explicit German declaration. Because of the need to ensure that such limitations are the result of German choice, not conditions imposed by others, they should not be decided in Two-plus-Four, but the two Germanys could -- and most likely would -- be prepared to give assurances that could be taken note of in Two-plus-Four.

Drafted: EUR/CE:CB Skinner *WA*
4/5/90 647-2682 SECEEW2201

Cleared: EUR:JFDobbins
EUR/CE:JM Seymour
EUR/CE:AAGoodman
S/P:RGeorge
C:NBurns (info)

MA for



United States Department of State

Washington, D. C. 20520

April 6, 1990

INFORMATION MEMORANDUM

S/S

~~SECRET~~/EXDIS Attachment

TO: C - Mr. Zoellick

FROM: L - Abraham D. Sofaer *AS*

SUBJECT: GDR Accession under Article 23 of the FRG Basic Law

You requested our analysis of Embassy Bonn's argument that both the Soviet Union and the Western Allies have effectively renounced their rights to prevent accession pursuant to Article 23 of the FRG Basic Law.

Our tentative conclusion (which we have sent to Mike Young, currently in Europe, for his comments) follows:

Background

In early March, the Soviets asserted in Berlin that they, as well as the Four Powers collectively, could bar the accession to the FRG by all or part of the GDR under Article 23 of the FRG Basic Law (Bonn 8005, Tab 1). The initial Department legal analysis (State 81208, Tab 2) found "considerable basis in post-war documentation" for the Soviet position but outlined three possible arguments for meeting the assertion:

- (i) that such a four-power right no longer exists, or does not exist in the manner the Soviets are asserting;
- (ii) that this four-power right would have to be asserted jointly, and the Soviets are not free unilaterally to assert a veto right;
- (iii) that regardless of the Soviets' rights, they must assert those rights in a reasonable manner or risk losing them. (For example, it would be unreasonable to frustrate the right to German self-determination by claiming a right to veto unification via Article 23).

~~SECRET~~
decl:oadr

DECLASSIFIED
PER E.O. 12958,
AS AMENDED
2008-0658-MR
03/10/2010 MM

~~SECRET~~

- 2 -

Subsequently, Embassy Bonn raised the possibility of an additional argument related to the point that such a right does not exist, namely, that both the Soviet Union and the Western Allies - but particularly the Soviets - may have renounced or qualified their rights to prevent accession pursuant to Article 23 (Bonn 9888, Tab 3).

Discussion

Embassy Bonn's arguments are sufficiently sound to permit the inclusion in Department contingency talking points on this issue of a hedged assertion that any claim the Soviets originally had to prevent or constrain German unification may well have been surrendered or compromised by the Soviets through their conduct after Potsdam. The essence of this case is that the Soviets sought between 1945 and 1955 to establish the GDR as an independent state with full control over its borders. This effort culminated in the 1955 Soviet-GDR Treaty on Relations when the Soviets, instead of reserving their rights "relating to the reunification of Germany" (as the Allied Powers did in article 2 of the Relations Convention of 1954), agreed with the GDR in article 1 of their treaty that the GDR "is free to take decisions on all questions pertaining to ... its relations with the Federal Republic of Germany," and in a March 24, 1958 Aide-Memoire that the "problem of unifying the G.D.R. and the Federal Republic into a single state ... is entirely within the competence of the two German states themselves."

In making this point, Department officials should be prepared for the Soviet argument that they simultaneously preserved their rights. We can simply say that remains to be seen, but the GDR might disagree. In fact, the USG should not attempt to speak authoritatively with respect to Soviet/GDR agreements. Rather, we should put the argument in the following manner: that we believe the GDR might disagree with the Soviet view (as expressed by Maxsimychev), and that we see a solid basis in the Soviet-GDR agreements and in prior Soviet conduct for such disagreement. Finally, Department officials should not equate the Soviet and Allied positions. The Allied case for at least a qualified right of approval of the terms of German unification is much stronger than the Soviet case, although it is fair to say that even the Allied Powers indicated a readiness to permit the Article 23 process.

~~SECRET~~

~~SECRET~~

- 3 -

Attachments:

Tab 1 - Bonn 8005
Tab 2 - State 81208
Tab 3 - Bonn 9888

Drafted:L:ADSofer; 4/5/90; #102 WPPLAF
Clearance:EUR:JDobbins
S/P:JHolmes
EUR/CE:AGoodman
EUR/SOV:JTefft

cc:L:MYoung
L/EUR:TMPeay
L/AF:JByerly

~~SECRET~~

AG
CBS

~~SECRET~~

Department of State

S/S-O
OUTGOING

3-
54714

PAGE 01 STA# 001203 0794

PAGE 01 STATE 001200
THE REUNIFICATION OF GERMANY AND A PEACE SETTLEMENT." IN ARTICLE 7 OF THAT CONVENTION IT STATES THAT "THE (SIGNATORY STATES) FURTHER AGREE THAT THE FINAL DETERMINATION OF THE BOUNDARIES OF GERMANY MUST AWAIT SUCH (A PEACE) SETTLEMENT." IT HAS THEREFORE BEEN THE TRADITIONAL VIEW OF THE WESTERN ALLIES, ACCEPTED BY THE FRG, THAT GERMANY'S FINAL BOUNDARIES AND, INDEED, ITS RIGHT TO REUNIFY, IS CONTINGENT ON FOUR-POWER RIGHTS DERIVED FROM THE ALLIES' JOINT CONQUEST OF GERMANY IN THE SECOND WORLD WAR.

ORIGIN SS-80

INFO LOG-DE ADS-DE ESO-DE CCO-DE /897 2

DRAFTED BY: L/EUR: DRISLITZ

APPROVED BY: L: HYOUNG

C: INTERVIEWS

ENV: JDOBJINS

FMR/CE: P5405

ENR/SPV: AVERSHAW

8/5-9: 6 STAPLES

8/3: JEFF COLLINS

S/P: GEORGE

EUR: SPICK MILEY

L/EMR: TYPEAY

P: AMOLFF

-----342172 140540Z /38

Q R 140536Z MAR 98 ZFFA

FM SECSTATE WASHDC

TO AMEMBASSY BOMB NIACT IMMEDIATE

1000 AMEMBASSY EMBERLIN

THE U. S. EMBASSY IN
THE RUSSIAN MOSCOW

AMEMBASSY MOSCOW
AMEMBASSY PARIS

ARE FUSSY PARTS
ARE FUSSY LONDON

AMEMBASSY LONDON
MEMISSIOM USREBLIN

• MISSION USNATO

~~SECRET~~ STATE 001203

EXDIS FOR COUNSELOR ZOELLICK AND A/S SEITZ

E. O. 12356: DECL: OADR

TAGS: PREL, GE, GC, BZ, SU, UR

SUBJECT: SOVIET LEGAL ARGUMENT BARRING GERMAN USE OF
ARTICLE 23 FOR REUNIFICATION

REFS : BOMM 1805, USBERLIN 789

PLEASE DELIVER MARCH 14 BEFORE 2 PLUS 4 MEETING.

1. THE FOLLOWING IS L'S MEMORANDUM ON THE LEGAL BASIS FOR THE SOVIET POSITION REGARDING REUNIFICATION UNDER ARTICLE 23:

~~SECRET~~

SOVIET LEGAL ARGUMENT BARRING GERMAN USE OF ARTICLE
23 FOR REUNIFICATION

SOVIET BOM MAXSIMYCHEV TOLD MINISTER GILMORE ON MARCH 7
THAT THE FOUR POWERS COULD DECLARE INVALID GERMAN OR

AT LEAST GDR USE OF ARTICLE 23 TO UNIFY, OR, IN A "WORST CASE SCENARIO", THE SOVIETS COULD "FORCE" THE GDR FROM USING ARTICLE 23 TO JOIN THE FRG. USDERLIN YES. THE SOVIET ARGUMENT IS NOT WITHOUT LEGAL FOUNDATION. NEVERTHELESS, GIVEN THE POLITICAL DIFFICULTIES THE U.S. MAY HAVE IN CONCEDEDING THE POSITION, WE URGE THAT NO ONE RECOGNIZE THE LEGITIMACY OF THE SOVIET VIEW UNTIL WE HAVE HAD TIME TO CONDUCT A MORE THOROUGH ANALYSIS.

ALL OF THE FOUR POWERS HAVE OPERATED SINCE YALTA AND THE IMMEDIATE POST-WAR YEARS ON THE UNDERSTANDING THAT GERMANY'S BORDERS WOULD BE ESTABLISHED BY JOINT AGREEMENT OF THE FOUR POWERS. THE WESTERN ALLIES EXPRESSED THAT VIEW IN THE 1952 RELATIONS CONVENTION WITH THE FRG. ARTICLE 2 OF THE CONVENTION STATES THAT "THE THREE POWERS RETAIN THE RIGHTS AND RESPONSIBILITIES HERETOFORE EXERCISED OR HELD BY THE FOUR, RELATING TO . . . GERMANY AS A WHOLE, INCLUDING

SINCE THE SOVIETS ARE NOT A SIGNATORY TO THE RELATIONS CONVENTION, IT IS NATURAL THAT THEY WOULD RELY ON AN EARLIER, FOUR-POWER DOCUMENT AS AUTHORITY FOR ESSENTIALLY THE SAME PROPOSITION: UNIFICATION REQUIRES FOUR-POWER CONCURRENCE.

THE DOCUMENT ON WHICH THEY BASE THEIR CLAIM IS A JUNE 5, 1945 ALLIED "DECLARATION REGARDING THE DEFEAT OF GERMANY AND THE ASSUMPTION OF SUPREME AUTHORITY BY THE ALLIED POWERS," IN WHICH, AMONG OTHER THINGS, THE ALLIES NOTED THAT THE FOUR POWERS "WILL HEREAFTER DETERMINE THE BOUNDARIES OF GERMANY OR ANY PART THEREOF AND THE STATUS OF GERMANY OR OF ANY AREA AT PRESENT BEING PART OF GERMAN TERRITORY."

THERE ARE THREE POSSIBLE ARGUMENTS FOR MEETING THE SOVIET ASSERTION. EACH HAS ITS OWN PROBLEMS, BUT VARIOUS COMBINATIONS OF THESE ARGUMENTS MIGHT BE ENOUGH TO AVOID CEDING THE SOVIETS THE LEGAL HIGH GROUND. FIRST, WE CAN ARGUE THAT THIS FOUR-POWER RIGHT NO LONGER EXISTS, OR DOES NOT EXIST IN THE MANNER THE SOVIETS ARE ASSERTING. UNFORTUNATELY, OUR OWN OFF-STATED LEGAL POSITION MAKES THE ADOPTION OF THIS ARGUMENT DIFFICULT. THE RELATIONS CONVENTION TALKS ABOUT THE RETAINED "RIGHT AND RESPONSIBILITY" REGARDING "THE REUNIFICATION OF GERMANY". IT IS DIFFICULT TO ARGUE THAT THE THREE POWERS RETAINED THIS RIGHT AND THE SOVIET UNION DID NOT. ALTHOUGH WE HAVE GENERALLY BEEN MORE CAREFUL THAN THE SOVIETS IN PRESERVING AND RESTATING OUR RIGHTS REGARDING GERMANY AS A WHOLE, THE SOVIETS PRESERVED THEIR RIGHTS AT THE TIME THEY GRANTED THE GDR ITS SOVEREIGNTY AND EVEN JOINED THE THREE WESTERN ALLIES IN 1972 IN AFFIRMING THAT THE FRG AND GDR'S JOINING OF THE UN "IN NO WAY AFFECT THE RIGHTS AND RESPONSIBILITIES OF THE FOUR POWERS. . . ."

SECOND, WE CAN ARGUE THAT THE FOUR-POWER RIGHT MUST BE ASSERTED JOINTLY, AND THE SOVIETS ARE NOT FREE TO UNILATERALLY ASSERT A VETO RIGHT. WE ARE SIMILARLY AT A DISADVANTAGE IN MAKING THIS SECOND ARGUMENT. WE HAVE CONSISTENTLY TAKEN THE POSITION IN THE YEARS SINCE THE BERLIN BLOCKADE THAT THE SOVIETS CANNOT UNILATERALLY TERMINATE FOUR-POWER RIGHTS. WE WOULD BE HARD PUT TO ARGUE TODAY THAT THE WESTERN ALLIES CAN TRILATERALLY TERMINATE THOSE RIGHTS. AT A MINIMUM, HOWEVER, WE COULD USE THIS ARGUMENT TO RESTRAIN UNILATERAL SOVIET ACTION. IN OTHER WORDS, FOUR-POWER RETAINED RIGHTS ARE JUST THAT, RIGHTS TO BE EXERCISED JOINTLY BY ALL FOUR POWERS. THUS, IT IS INAPPROPRIATE AND INCONSISTENT WITH THE ORIGIN OF THOSE RIGHTS IN THE JOINT WARTIME EFFORTS OF THE FOUR POWERS FOR THE SOVIETS TO USE THOSE RIGHTS AS A UNILATERAL VETO.

THIRD, WE CAN ARGUE THAT REGARDLESS OF THE SOVIETS' RIGHTS, THEY MUST ASSERT THOSE RIGHTS IN A REASONABLE MANNER OR RISK LOSING THEM. OUR STRONGEST ARGUMENTS ARE LIKELY TO BE IN THIS THIRD CATEGORY. UNDER ARTICLE 2 OF THE UN CHARTER AND ARTICLE 31(1) OF THE VIENNA

NOT TO BE REPRODUCED WITHOUT THE
APPROVAL OF THE EXECUTIVE SECRET

DECLASSIFIED
PER E.O. 12958
AS AMENDED
2008-0658-JR
03/10/2010 JMM

~~SECRET~~

S/S-O
OUTGOING

Department of State

PAGE 02 OF 02 STATE 001200 4004
CONVENTION ON THE LAW OF TREATIES, PARTIES TO A TREATY
MUST PERFORM THEIR OBLIGATIONS IN GOOD FAITH. WE COULD

SS02936

ARGUE THAT SOVIET INTRANSIGENCE IN THE FACE OF THE
SELF-DETERMINATION OF THE GERMAN PEOPLE AND AGAINST THE
WISHES OF THE WESTERN ALLIES REPRESENTS AN UNREASONABLE
EXERCISE OF THEIR RETAINED RIGHTS REGARDING GERMANY AS
A WHOLE AND IS THUS INVALID.

THE ABOVE IS A QUICK SYNOPSIS OF THE ARGUMENTS FOR AND
AGAINST THE SOVIET POSITION. OTHER, PERHAPS MORE
FAVORABLE, LINES OF ARGUMENT MAY EXIST AND MIGHT BE
DEVELOPED WITH MORE TIME TO REFLECT AND RESEARCH THE
ISSUE. IN THE MEANTIME, I WOULD URGE THAT WE AVOID
CONCEDING ANY LEGITIMACY TO THE SOVIET POSITION,
DESPITE ITS CONSIDERABLE BASIS IN POST-WAR
DOCUMENTATION.

2. THE FOLLOWING ARE PROPOSED REBUTTAL POINTS IN THE
EVENT THE SOVIETS ASSERT THEIR LEGAL POSITION REGARDING
ARTICLE 23:

O THE SOVIET ASSERTION OF AN ALLIED RIGHT TO BLOCK USE
OF ARTICLE 23 IS A NOVEL CONCEPT THAT WOULD REQUIRE
CAREFUL REVIEW

O REGARDLESS OF THE OUTCOME OF THAT REVIEW, RIGHTS
RESERVED BY THE FOUR POWERS MUST BE EXERCISED JOINTLY.

- THESE ALLIED RIGHTS ARE A RESULT OF JOINT EFFORTS
IN WORLD WAR TWO AND CAN NOT AND SHOULD NOT BE
USED UNILATERALLY BY ONE PARTY TO GAIN ADVANTAGE

O MOREOVER, ALL FOUR ALLIES ARE UNDER AN INTERNATIONAL
LAW OBLIGATION (PURSUANT TO ARTICLE 2 OF THE UN CHARTER
AND ARTICLE 31 (1) OF THE VIENNA CONVENTION ON THE LAW
OF TREATIES) TO EXERCISE THEIR RESERVED RIGHTS
REASONABLY AND IN GOOD FAITH.

- WE DO NOT BELIEVE THAT ANY EXERCISE OF ALLIED
RESERVED RIGHTS IN A FASHION WHICH FRUSTRATES GERMAN
SELF-DETERMINATION WOULD BE REASONABLE OR
RESPONSIBLE.

- IN EXERCISING THEIR RIGHT TO SELF-DETERMINATION, THE
GERMANS HAVE THE RIGHT TO CHOOSE THEIR
CONSTITUTIONAL PATH TO UNITY.

- TO HAVE OUTSIDE POWERS SEEK TO DICTATE THIS PATH
WOULD HAVE DANGEROUS LONG-TERM CONSEQUENCES.

O ALL ALLIED POWERS HAVE ENDORSED THE HELSINKI FINAL
ACT, WHICH, INTER ALIA, SUPPORTS THE RIGHT TO CHANGE
BORDERS PEACEFULLY. WE SEE NO THREAT TO PEACE ARISING
FROM THE USE OF ARTICLE 23 - SHOULD THE FREELY
ELECTED GOVERNMENTS OF EAST AND WEST GERMANY DECIDE TO
USE IT -- AS AN APPROACH TO UNIFICATION.

THIS ARTICLE HAS BEEN USED IN THE PAST (SAARLAND
1956) WITHOUT ANY SOVIET OBJECTION. WHAT ARE THE
SPECIFIC THREATS TO THE PEACE THAT THE SOVIETS ARE
ALLUDING TO? BAKER

EX
DIS

EX
DIS

EX
DIS

EX
DIS

SECRET

Department of State

S/S-U
INCOMING

PAGE 01 OF 02 BONN 09888 00 OF 02 270938Z 0235 006508 SS06353 27/1131Z

ACTION OFFICE EUR-02
INFO NST-01 SSS-01 SSSA-01 SSI-02 SSO-01 PM-01 INR-01 P-02
D-01 C-01 T-01 PM-01 SP-02 OCT-01 PA-01 L-01 10-01
UNA-01 /023 A1
OCT PASS INRE NSCE CIAE DODE

INFO X-01 SS-01 EUR-01 JSR-01 /004 A4 TT

ACTION SS-00

INFO LOG-00 ADS-00 /001 W 164544 270940Z /10 38

P 270846Z MAR 88
FM AMEMBASSY BONN
TO SECSTATE WASHDC PRIORITY 6361
INFO AMEMBASSY EMBERLIN
AMEMBASSY MOSCOW
AMEMBASSY PARIS
AMEMBASSY LONDON
USMISSION USNATO
USMISSION USBERLIN

~~SECRET~~ BONN 09888

EXDIS

FOR YOUNG AND KOBLITZ

E.O. 12356: DECL: OADR
TAGS: PREL, GE, BZ, SU, UR
SUBJECT: SOVIET LEGAL ARGUMENTS RE ARTICLE 23

REF: (A) USBERLIN 789, (B) BONN 8805, (C) STATE 81208

1. ~~SECRET~~ ENTIRE TEXT.

2. SUMMARY: WE APPRECIATE DEPARTMENT'S ANALYSIS AND CONCLUSIONS ON POTENTIAL SOVIET LEGAL ARGUMENTS RELATING TO FOUR POWER AND SOVIET RIGHTS TO BLOCK GDR ACCESSION TO THE FRG VIA ART. 23. EMBASSY SUGGESTS THAT ADDITIONAL ARGUMENTS, BASED ON SOVIET-GDR AGREEMENTS AND SUBSEQUENT SOVIET STATEMENTS, BE CONSIDERED. THESE LEAD US TO SUGGEST THAT WE HAVE A BASIS TO ASSERT THAT THE SOVIETS HAVE RENOUNCED ANY LEGAL RIGHT TO VETO OR EVEN TO RETARD UNIFICATION THEY ONCE MAY HAVE ENJOYED. END SUMMARY.

3. EMBASSY APPRECIATES LEGAL ANALYSIS CONTAINED REFTEL C, AND IN PARTICULAR ENDORSES THE ADVICE THAT WE AVOID CONCEDED THE ARGUMENT PROPOUNDED BY MAKSYMCHYEV (REFTEL A) THAT THE FOUR POWERS, OR EVEN THE SOVIETS ACTING ALONE, RETAIN THE RIGHT TO BLOCK ACCESSION OF THE GDR TO THE FRG VIA ARTICLE 23 OF THE FRG'S BASIC LAW. BEFORE THE DEPARTMENT COMES TO FINAL CONCLUSIONS, WE WOULD LIKE TO SUGGEST SOME ADDITIONAL ARGUMENTS TO BOLSTER OUR RESPONSE SHOULD THE "MAKSYMCHYEV THEORY" BE RELIED ON BY THE SOVIETS.

4. WE AGREE THAT RIGHTS (NEVER PRECISELY DEFINED) RELATING TO UNIFICATION OF GERMANY ACCRUED TO THE FOUR POWERS AS A RESULT OF THE CONQUEST OF THE THIRD REICH. THESE ORIGINAL RIGHTS WERE EXPLICITLY PRESERVED BY THE ALLIES IN THE RELATIONS CONVENTION AND THEIR EXISTENCE AND PRESERVATION WERE RECOGNIZED IN THAT CONVENTION BY THE FRG. IT IS IMPORTANT, HOWEVER, TO RECOGNIZE THAT THE FOUR POWERS DEALT WITH THESE ORIGINAL RIGHTS VERY DIFFERENTLY IN THE INTERVENING YEARS. IT IS THEREFORE NOT NECESSARILY THE CASE THAT THE RIGHTS ENJOYED BY THE SOVIETS TODAY ARE MIRROR IMAGES OF THOSE ENJOYED BY THE ALLIES. IN FACT, STRONG ARGUMENTS CAN BE MADE THAT THE RESIDUUM OF ORIGINAL RIGHTS RELATING TO UNIFICATION HELD BY THE ALLIES IS QUITE LIMITED AND THAT THE SOVIETS HAVE ENTIRELY RENOUNCED THEIRS.

5. IN THE RELATIONS CONVENTION, THE ALLIES RETAINED THEIR RIGHTS RELATING TO "THE REUNIFICATION OF GERMANY" (ART. 2) BUT ALSO UNDERTOOK TO "COOPERATE TO ACHIEVE, BY PEACEFUL MEANS, THEIR COMMON AIM OF A REUNIFIED GERMANY ENJOYING A LIBERAL DEMOCRATIC CONSTITUTION, LIKE THAT OF THE FEDERAL REPUBLIC, AND INTEGRATED WITHIN THE EUROPEAN COMMUNITY" (ART. 7 (2)). EXERCISE OF OUR RETAINED RIGHTS IN ORDER TO PREVENT UNIFICATION COULD, THEREFORE, ONLY BE JUSTIFIED AS CONSISTENT WITH THE RELATIONS CONVENTION ON THE GROUND THAT THE UNIFICATION PROPOSED BY THE GERMANS WAS CONTRARY IN SOME WAY TO THE AIMS OF ART 7 (2). IT COULD EVEN BE ARGUED THAT BY PASSING UP THE OPPORTUNITY TO SUSPEND OR CONDITION THE APPLICATION OF ARTICLE 23 WHEN THE GRUNDGESETZ WAS ADOPTED, THE ALLIES IMPLICITLY GAVE THE FRG CARTE BLANCHE TO ACCEPT AS PART OF THE BUND ANY "PART OF GERMANY" THAT WISHED TO ACCEDE, AND, ACCORDINGLY, THAT WE RETAIN NO RIGHTS WITH RESPECT TO UNIFICATION VIA ARTICLE 23.

5. THE SOVIET POSITION MAY BE EVEN WEAKER. IN THE SEPTEMBER, 1955, SOVIET-GDR RELATIONS CONVENTION THAT MIRRORRED IN ALMOST EVERY RESPECT THE ALLIES-FRG RELATIONS CONVENTION, THE SOVIETS, UNLIKE THE ALLIES, MADE NO EXPLICIT RESERVATION OF THEIR ORIGINAL RIGHTS, BUT INSTEAD

STATED THAT THE GDR "IS FREE TO TAKE DECISIONS ON ALL QUESTIONS PERTAINING TO ITS DOMESTIC AND FOREIGN POLICY, INCLUDING ITS RELATIONS WITH THE FEDERAL REPUBLIC OF GERMANY AND THE DEVELOPMENT OF RELATIONS WITH OTHER STATES." ARTICLE 5 OF THE USSR-GDR TREATY, WHICH MIRRORRS ARTICLE 7 OF OUR RELATIONS CONVENTION, STATES THAT THE USSR AND THE GDR WILL "MAKE THE NECESSARY EFFORTS TO ACHIEVE A SETTLEMENT BY PEACE TREATY AND THE REUNIFICATION OF GERMANY ON A PEACEFUL AND DEMOCRATIC BASIS."

6. IN MARKED CONTRAST TO THE PARALLEL PROVISIONS OF THE WESTERN RELATIONS CONVENTION, WHICH HAD ENTERED INTO FORCE ONLY A FEW MONTHS EARLIER, IT WOULD APPEAR THAT THE USSR, MISTAKENLY COUNTING ON THE INDEFINITE EXISTENCE OF A LIKE-MINDED GDR, RENOUNCED WHATEVER ORIGINAL RIGHTS IT MAY HAVE ENJOYED UP TO THAT TIME AS A RESULT OF THE CONQUEST (INCLUDING THE RIGHT TO STATION TROOPS. SEE ART. 4). OF COURSE, IT IS UP TO THE PARTIES TO AN AGREEMENT, IN THIS CASE THE USSR AND THE GDR, TO INTERPRET ITS MEANING, BUT IT WOULD BE MOST SURPRISING IF THE GDR DID NOT ASSERT THIS VIEW SHOULD THE SOVIETS SEEK TO IMPLEMENT MAKSYMCHYEV'S THEORY.

7. SUBSEQUENT STATEMENTS BY THE SOVIETS LEND CREDENCE TO THIS INTERPRETATION. A QUICK REVIEW OF "DOCUMENTS ON GERMANY" REVEALS SEVERAL EXAMPLES. IN 1953, THE SOVIETS SENT US AN AIDE MEMOIRE STATING "NEITHER CAN THE PROBLEM OF UNIFYING THE G.D.R. AND THE FEDERAL REPUBLIC INTO A SINGLE STATE BE THE SUBJECT OF A SUMMIT DISCUSSION, BECAUSE THIS MATTER IS ENTIRELY WITHIN THE COMPETENCE OF THE TWO GERMAN STATES THEMSELVES." IN JANUARY, 1959, THE SOVIETS SENT US A LONG NOTE INTRODUCING A DRAFT PEACE TREATY, IN WHICH THEY STATED "... THE QUESTION OF THE UNIFICATION OF GERMANY DOES NOT LIE WITHIN THE COMPETENCE OF THE (FOUR POWERS). NEGOTIATIONS OF THE FOUR POWERS REGARDING THE UNITY OF GERMANY WERE ENTIRELY LEGAL IN THE OCCUPATION PERIOD, WHEN THESE GOVERNMENTS CARRIED OUT THE FUNCTIONS OF ADMINISTRATION AND CONTROL IN GERMANY. AT THE PRESENT TIME, WHEN THE OCCUPATION IS A PASSED STAGE, AND WHEN TWO INDEPENDENT GERMAN STATES HAVE ARISEN ON THE TERRITORY OF GERMANY, THE QUESTION OF THE REUNIFICATION OF GERMANY HAS BECOME AN INTERNAL GERMAN PROBLEM, WHICH CAN BE DECIDED ONLY BY MEANS OF A RAPPROCHMENT AND AGREEMENT BETWEEN THESE STATES." FURTHER RESEARCH MIGHT WELL REVEAL ADDITIONAL EXAMPLES.

ADS
my
4Eur

NOT TO BE REPRODUCED WITHOUT THE
AUTHORIZATION OF THE EXECUTIVE SECRETARY

SECRET

EXDIS

EXDIS

EXDIS

EXDIS

DECLASSIFIED
PER E.O. 12958,
AS AMENDED

2008-06-58 - MR 03/16/2010 AM

~~SECRET~~

S/S-D
INCOMING

Department of State

PAGE 02 OF 02 BONN 09488 00 OF 02 270338Z 07235 006501 8506353

8. THE BOTTOM LINE IS THAT, IN ADDITION TO THE ARGUMENTS
CONTAINED REFTEL C, ADDITIONAL POINTS, INCLUDING REFERENCE
TO CONTRARY SOVIET PRACTICE, COULD BE MARSHALLED TO REFUTE
MAKSIMYCHEV'S INTERPRETATION OF FOUR POWER AND SOVIET
RIGHTS.
WARD

EXDIS

EXDIS

EXDIS

EXDIS

NOT TO BE REPRODUCED WITHOUT THE
AUTHORIZATION OF THE EXECUTIVE SECRETARY

~~SECRET~~

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
13r. Paper	Germany Task Force Paper: The ADIZ and the Air Defense of Germany [SENT FOR AGENCY REFERRAL] (8 pp.)	03/05/90	(b)(1)	S

Collection:

Record Group: Bush Presidential Records
Office: National Security Council
Series: Blackwill, Robert D.
Subseries: Subject File
WHORM Cat.:
File Location: [German Reunification 11/89-6/90] [2]

Date Closed:	9/15/2003	OA/ID Number:	CF00182-021
FOIA/SYS Case #:	2001-1166-F	Appeal Case #:	
Re-review Case #:		Appeal Disposition:	
P-2/P-5 Review Case #:		Disposition Date:	
AR Case #:		MR Case #:	
AR Disposition:		MR Disposition:	
AR Disposition Date:		MR Disposition Date:	

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P-1 National Security Classified Information [(a)(1) of the PRA]
 P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
 P-3 Release would violate a Federal statute [(a)(3) of the PRA]
 P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
 P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
 P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

Freedom of Information Act - [5 U.S.C. 552(b)]

(b)(1) National security classified information [(b)(1) of the FOIA]
 (b)(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
 (b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
 (b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
 (b)(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
 (b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
 (b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
 (b)(9) Release would disclose geological or geophysical information

~~SECRET~~

BERLIN: DIRECT ELECTIONS AND BUNDESTAG VOTING RIGHTS

POINTS TO MAKE

1. There appears to be Allied agreement on the substance of this issue, but not on the modalities of consulting the Soviets in order to meet our obligations under the Quadripartite Agreement.
2. Our preference is to take the issue up directly with the Soviets, using the talking points which have been developed by the Bonn Group (as modified).
3. We believe it is best to concentrate in Two-plus-Four discussion on getting Soviet agreement to the termination of Four-Power rights in Berlin, rather than to become involved immediately in a discussion of changes in arrangements that were worked out exclusively by the Allies and the FRG in 1949 and 1952-4.
4. Taking this issue up in Two-plus-Four, at the official or Ministerial level, raises its profile and may force the Soviets to oppose it.
5. We believe a tripartite Ambassadorial approach in Moscow to consult with the Soviets in the present circumstances fulfills our obligations not to act unilaterally under the Quadripartite Agreement. It does not give the Soviets a veto, but it gives them an opportunity, if they choose, to assent and to represent themselves to their domestic audience as being part of the process.

WATCH OUT FOR

Having tried in vain to convince Shevardnadze on March 30 to go along with direct elections for Berlin's representatives, Dumas has decided that the issue should be taken up in the Two-plus-Four talks. The French argue that the Soviets have taken a constructive approach so far in Two-plus-Four. Moreover, a positive decision on the voting issue early in Two-plus-Four would augur well for the overall outcome. We believe the French approach puts a small issue (Berlin voting) ahead of the big issue (unification). It also puts the Soviets on the spot.

Since the March 18 election in the GDR, the issue has also become a partisan one in the FRG. Momper (SPD) has charged that Kohl is neglecting Berlin. The CDU has responded that the SPD has its priorities wrong.

~~SECRET~~
DECL:OADR

DECLASSIFIED
PER E.O. 12958,
AS AMENDED
2008-0654-412
12/15/08 KW

~~SECRET~~

-2-

BACKGROUND

1. There appears to be Allied agreement on the substance of this issue, but not on the modalities of consulting the Soviets in order to meet our obligations under the Quadripartite Agreement.

Embassy Paris reported on April 4, that the French accept the FRG's proposal for direct election of Berlin's delegates to the Bundestag and full voting rights for these representatives. We and the British had already agreed at the beginning of March and had instructed our Embassies in Moscow to make a demarche, consulting the Soviets but not giving them a veto. The French in Bonn at first indicated that they also agreed to this approach. Then instructions came from Paris saying to "put the issue in Two-plus-Four." That remains the French position, even after Foreign Minister Dumas' single-handed attempt on March 30 to get Shevardnadze to agree to go along with direct elections.

2. Our preference is to take the issue up directly with the Soviets, using the talking points which have been developed by the Bonn Group (as modified).

A Two-plus-Four discussion of this topic would crowd the agenda. Because it needs prompt attention to meet the FRG's legislative calendar, the voting issue would also need to be dealt with early -- perhaps upsetting priorities. Also, there is no need to involve the GDR. As a Four-Power issue, this is an issue that the Three need to take up with the Soviets. Our goal is to give the Soviets a chance to go along, without forcing them to oppose the change or risking the embarrassment to the FRG of doing it in front of their Two-plus-Four delegation and failing.

3. We believe it is best to concentrate in Two-plus-Four discussion on getting Soviet agreement to the termination of Four-Power rights in Berlin, rather than to become involved immediately in a discussion of changes in arrangements that were worked out exclusively by the Allies and the FRG in 1949 and 1952-4.

Berlin is already on the Two-plus-Four agenda, but we believe that the first (and almost the only) Berlin item on this agenda should be the termination of Four-Power rights. Once we have agreement in principle on this fundamental point, other Berlin issues will be less troublesome.

~~SECRET~~

~~SECRET~~

-3-

4. Taking this issue up in Two-plus-Four, at the official or Ministerial level, raises its profile and may force the Soviets to oppose it.

At the Ministerial level, any discussion of this issue that does not reach a positive decision would be interpreted by the Berliners and the Germans as a veto. In other words, we think that this issue cannot simply be "discussed" in the Two-plus-Four talks. If it is discussed, that fact will become known. The German public will draw the conclusion that the Soviets are blocking the change. The high profile may force the Soviets to stick to their public opposition. The outcome will be a setback for the process.

5. We believe a tripartite Ambassadorial approach in Moscow to consult with the Soviets in the present circumstances fulfills our obligations not to act unilaterally under the Quadripartite Agreement. It does not give the Soviets a veto, but it gives them an opportunity, if they choose, to assent and to represent themselves to their domestic audience as being part of the process.

There is a Four-Power obligation under the QA not to act unilaterally. The Soviets can make a strong case that the changes proposed by the FRG constitute a change in Berlin's status. We want to avoid making these aspects the central issue. Instead, we want to stress the changed situation.

In a low-key way, we want to give the Soviets an opportunity to take the high road. If the French are right about Soviet governmental and domestic sensitivities, then the Soviets have a chance to portray themselves as joining the Allies in shaping these changes requested by Bonn.

~~SECRET~~

Drafted: EUR/CE:CB Skinner *WJ*
4/5/90 647-2682 SECEEW2201

Cleared: EUR:JFDobbins
EUR/CE:PShostal
EUR/CE:AAGoodman
S/P:RGeorge
C:NBurns (info) *WJ*

Department of State

OUTGOING

(11)

RS
JD
DS
CE
CH
SO
AB
RP
W
Mc

PAGE 01 STATE 069757 9686 000799 SS03576
-----04/2034Z

PAGE 01 STATE 069757 9686 000799 SS03576
ACCORDANCE WITH PAST PROCEDURES."

ORIGIN OFFICE EUR-02
INFO NST-01 SSS-01 SSSA-01 SSI-02 SSO-01 MR-01 INR-01 P-02
D-01 C-01 T-01 PM-01 SP-02 OCT-01 PA-01 L-01 IO-01
UNA-01 /023 A1 DR
OCT PASS INRE NSCE CIAE DODE

-- IN LIGHT, HOWEVER, OF THE LATEST SOVIET DEMARCHE TO OTHER PARTICIPANTS IN THE TWO-PLUS-FOUR PROCESS, WE WISH TO RE-EMPHASIZE THE IMPORTANCE OF PROCEEDING WITH THE IMPLEMENTING STEPS WITH SENSITIVITY TO AVOIDING COUNTERPRODUCTIVE SOVIET RESPONSES.

-----04/2020Z
INFO SSO-01 OUT-01 X-01 P-02 SS-01 C-01 EUR-01 JSR-01
009 A4 TOR

-- IN PARTICULAR, WE URGE THE FRG, FOR REASONS OF FORM AND COURTESY, NOT TO SUBMIT THE PROPOSED LEGISLATION ON THE SAME DAY AS THE ALLIED DEMARCHE TO THE SOVIETS. EMBASSY BONN SHOULD SEEK ALLIED SUPPORT FOR PROPOSING TO THE FRG THAT THE SUBMISSION TAKE PLACE TOWARD THE END OF THE WEEK.

ORIGIN SS-00

INFO LOG-00 ADS-00 SSO-00 CCO-00 /002 R

DRAFTED BY: EUR/CE:CB Skinner:LAG
APPROVED BY: P:RKIMMITT
EUR/JFDOBBINS, EUR/CE:PSHOSTAL EUR/CE:JMSEYMOUR
EUR/CE:AAGOODMAN, L/EUR:DKOBLITZ EUR/SOV/MULTI:ADWOLFF
EUR/WE:SDENGELKEN, P:EDELMAN C:NBURNS, S/S:JSROY
C:ROELICK, S/S-O:LGerson
DESIRED DISTRIBUTION
EUR CE, EUR/SOV

-- FURTHERMORE, WE RECOGNIZE THE FRG SHARES OUR INTEREST IN TAKING SUBSEQUENT STEPS TOWARD THE OBJECTIVE OF ESTABLISHING BERLIN VOTING RIGHTS IN A FASHION THAT MINIMIZES THE LIKELIHOOD OF SOVIET OPPOSITION OR OBSTRUCTION ON THIS AND OTHER UNIFICATION ISSUES.

3. DEPARTMENT ALSO APPROVES THE METHOD OF DELIVERY RECOMMENDED IN PARAGRAPH 6 OF REFTEL.
EAGLEBURGER

-----007210 042004Z 036
O O 042002Z MAR 90 ZFF4
FM SECSTATE WASHDC
TO AMEMBASSY BONN NIACT IMMEDIATE
AMEMBASSY MOSCOW NIACT IMMEDIATE
AMEMBASSY PARIS NIACT IMMEDIATE
INFO USMISSION USBERLIN IMMEDIATE
AMEMBASSY EMBBERLIN PRIORITY
AMEMBASSY LONDON PRIORITY
USMISSION USNATO PRIORITY

CONFIDENTIAL STATE 069757

EXDIO

E.O. 12356: OADR
TAGS: PREL, PGOV, BZ, GE, UR, BQG
SUBJECT: BERLIN VOTING ISSUE: ALLIED RESPONSE TO
SOVIET DEMARCHE

REF: BONN 7006

1 ~~CONFIDENTIAL~~ - ENTIRE TEXT

2. WE CAN AGREE TO THE PROPOSED ALLIED RESPONSE ON THE BERLIN VOTING ISSUE, ALTHOUGH WE WOULD SUGGEST SOME ALTERATIONS AS NOTED IN PARAGRAPH 2 BELOW. IN ADDITION, IN LIGHT OF THE MOST RECENT SOVIET DEMARCHE REGARDING GERMANY, THE DEPARTMENT WOULD LIKE TO RELAY A CONSIDERATION ABOUT MANAGING SOVIET SENSITIVITIES AT THE SAME TIME WE CONVEY OUR AGREEMENT ON THIS STEP. THEREFORE, US REP IN BONN GROUP -- AND EMBASSY BONN DIRECTLY WITH MOST SENIOR AVAILABLE FOREIGN MINISTRY OFFICIAL -- SHOULD MAKE THE FOLLOWING POINTS:

-- IF THE FRG BELIEVES IT IS IMPORTANT TO PROCEED IMMEDIATELY TO IMPLEMENT STEPS TO SECURE DIRECT ELECTIONS FOR BERLIN, THE US WILL CONCUR WITH THE PROPOSED ALLIED TEXT, ALTHOUGH WE SUGGEST THE

FOLLOWING ALTERATIONS:

-- AT THE THIRD TIC, FOLLOWING "THE SITUATION IN EUROPE," ADD: "INCLUDING IN THE GDR,...."
-- AT THE END OF NEXT TO THE LAST POINT (WHICH BEGINS "SUCH A CHANGE...") ADD: "LAWS WILL CONTINUE TO BE ADOPTED IN BERLIN IN

DECLASSIFIED
PER E.O. 12958,
AS AMENDED
2008-0654-MK
12/15/08 KO

~~CONFIDENTIAL~~

NOT TO BE REPRODUCED WITHOUT THE
AUTHORIZATION OF THE EXECUTIVE SECRETARY

Department of State

INCOMING

PAGE 01 BONN 07000 00 OF 02 021831Z 7051 SSO1905

PAGE 01 BONN 07000 00 OF 02 021831Z 7051 SSO1905

INFO X-01 SS-01 EUR-01 JSR-01 /004 A4 ACM
ALERTED B. MANDES, EUR, AT 1339

LEFT WITH THE SOVIETS AS A NON-PAPER. THERE SHOULD BE NO ALLIED PRESS STATEMENT ABOUT THE APPROACH TO THE SOVIETS.
7. BEGIN TEXT OF AD REF RESPONSE TO THE SOVIETS:

ACTION SS-00

-- THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY HAS PUT TO THE THREE WESTERN ALLIES PROPOSALS WHICH WOULD ALLOW THE DIRECT PARTICIPATION OF THE PEOPLE OF THE WESTERN SECTORS OF BERLIN IN FEDERAL ELECTIONS, AND THE LIFTING OF THE PRESENT RESTRICTIONS ON THE VOTING RIGHTS OF BERLIN REPRESENTATIVES IN THE BUNDESTAG AND BUNDESRAT.

INFO LOG-00 ADS-00 SSO-00 CCO-00 /002 V
-----262453 021834Z /44/38

-- WHEN THE SOVIET GOVERNMENT RAISED THIS ISSUE WITH THE THREE ALLIES AND WITH THE FEDERAL GOVERNMENT AT THE END OF JANUARY, THE THREE ALLIES HAD JUST RECEIVED A FORMAL PROPOSAL TO THIS EFFECT FROM THE FEDERAL GOVERNMENT. THE ALLIES HAVE CONSIDERED THE PROPOSAL AND, HAVING CONSULTED THE FEDERAL GOVERNMENT, WISH TO RESPOND TO THE SOVIET GOVERNMENT.

O 021759Z MAR 90 ZFF4
FM AMEMBASSY BONN
TO SECSTATE WASHDC NIACI IMMEDIATE 5220
INFO AMEMBASSY LONDON IMMEDIATE
AMEMBASSY MOSCOW IMMEDIATE
AMEMBASSY PARIS IMMEDIATE
AMEMBASSY EMBBERLIN
USMISSION USBERLIN

-- THE SITUATION IN EUROPE HAS IN RECENT TIMES CHANGED DRAMATICALLY AS A RESULT OF THE GROWTH OF DEMOCRACY IN MANY EUROPEAN COUNTRIES. THESE CHANGES HAVE BEEN WELCOMED IN BOTH EAST AND WEST.

~~CONFIDENTIAL~~ BONN 07000

EXDIS

-- IT IS IMPORTANT THAT BERLINERS ALSO SHOULD PARTICIPATE FULLY IN THE DEMOCRATIC PROCESS. IN VIEW OF THE CURRENT SITUATION, THE RESTRICTIONS THAT HAVE PREVIOUSLY PREVENTED THE DIRECT ELECTION OF BERLIN'S REPRESENTATIVES TO THE BUNDESTAG AND THE FULL VOTING RIGHTS OF BERLIN'S REPRESENTATIVES IN THE BUNDESTAG AND BUNDESRAT NO LONGER PERTAIN AND SHOULD BE REMOVED.

E.O. 12356: DECL:OADR
TAGS: BQG, BZ, PREL, UR
SUBJECT: BERLIN VOTING ISSUE: ALLIED RESPONSE TO SOVIET DEMARCHE

-- SUCH A CHANGE IN NO WAY DEROGATES FROM FOUR POWER RIGHTS AND RESPONSIBILITIES AND IS CONSISTENT WITH THE QUADRIPARTITE AGREEMENT. IN PARTICULAR, THE CHANGE WOULD NOT AFFECT THE PROVISION THAT THE WESTERN SECTORS CONTINUE NOT TO BE A CONSTITUENT PART OF THE FEDERAL REPUBLIC OF GERMANY AND NOT TO BE GOVERNED BY IT.

REFS: (A) STATE 29161; (B) DOBBINS-WARD TELCON OF 3/2/90

-- THE THREE ALLIES UNDERSTAND THAT, BECAUSE OF THE STRICT TIME PERIOD IMPOSED FOR AMENDING ELECTORAL LAW, THE FEDERAL GOVERNMENT INTENDS TO TAKE THE FIRST PARLIAMENTARY STEPS FOR THE INTRODUCTION OF LEGISLATION IN THE COMING WEEK.

1. ~~ENTIRE TEXT.~~

END AD REF TEXT.

2. THIS IS AN ACTION MESSAGE. SEE PARA. 8.

8. ACTION REQUESTED: DEPARTMENT APPROVAL OF THE PROPOSED ALLIED RESPONSE TO THE SOVIETS IN PARA. 7 ABOVE AS WELL AS THE METHOD OF DELIVERY RECOMMENDED IN PARA. 6. PLEASE NOTIFY THE EMBASSY BY NIACI IMMEDIATE CABLE SO THAT CONCURRENCE BY CAPITALS CAN BE COORDINATED IN THE BONN GROUP AND TRANSMITTED TO THE FRENCH REPRESENTATIVE AS CHAIRMAN ALLY IN MARCH.
WALTERS

3. AT A SPECIAL BONN GROUP MEETING MARCH 2, THE ALLIES AND THE FRG AGREED AD REF TO A DRAFT ALLIED RESPONSE TO THE SOVIET DEMARCHE OF JANUARY 26 OBJECTING TO A PROPOSED CHANGE IN BERLIN VOTING PROCEDURES (REF A). THE DRAFT ALLIED RESPONSE REFLECTS ALLIED CONCURRENCE IN THE FRG REQUEST TO ALLOW DIRECT VOTING BY BERLINERS IN FRG NATIONAL ELECTIONS AND FULL VOTING RIGHTS BY BERLIN REPRESENTATIVES IN THE BUNDESTAG AND BUNDESRAT.

4. THE UK, FRENCH, AND FRG REPRESENTATIVES CAME WITH INSTRUCTIONS TO SEEK QUICK ALLIED CONSENSUS ON THE TEXT OF A RESPONSE TO THE SOVIET DEMARCHE TO BE DELIVERED TO THE SOVIETS BY MONDAY, MARCH 5, AT THE LATEST. THE REASON FOR THE QUICK TURNAROUND IS THAT THE FRG INSISTS THAT ITS LEGISLATIVE PROCEDURES REQUIRE SUBMISSION DURING THE WEEK OF MARCH 5 OF IMPLEMENTING LEGISLATION TO ACCOMMODATE BERLIN'S PARTICIPATION IN THE DECEMBER 1990 NATIONAL ELECTIONS. THE FRG REPRESENTATIVE SAID THE LEGISLATIVE PROPOSAL HAD TO BE SUBMITTED BY MARCH 6 FOR A FIRST HEARING IN THE BUNDESTAG COMMITTEE ON MARCH 9. THIS PROPOSED LEGISLATION WOULD BECOME PART OF THE PUBLIC RECORD ON MARCH 7.

5. THE UK REPRESENTATIVE SAID THAT GIVEN THESE TIME CONSTRAINTS, LONDON WAS AIMING TO DELIVER THE ALLIED RESPONSE TO THE SOVIETS ON SATURDAY, MARCH 3, IF POSSIBLE. THE UK REPRESENTATIVE WAS IN A POSITION TO GIVE FINAL APPROVAL FOR THE AD REF TEXT PROVIDED IN PARA. 7 BELOW.

6. MODALITIES FOR DELIVERY: THE BONN GROUP RECOMMENDS THAT ON BEHALF OF THE ALLIES THE CHAIRMAN ALLY AMBASSADOR (FRANCE IN MARCH) DELIVER THE ALLIED RESPONSE AT THE APPROPRIATE LEVEL IN THE SOVIET FOREIGN MINISTRY IN MOSCOW BY THE MORNING OF MARCH 5; IF POSSIBLE, SOONER. (THE FRENCH REPRESENTATIVE ASKED THAT THE ALLIES AGREE TO DELIVERY OF THE RESPONSE IN PARIS SHOULD IT NOT BE POSSIBLE FOR ONE REASON OR ANOTHER FOR THE FRENCH AMBASSADOR TO DELIVER THE DEMARCHE IN MOSCOW). THE BONN GROUP ALSO RECOMMENDS THAT A COPY OF THE TALKING POINTS BE

DECLASSIFIED
PER E.O. 12958,
AS AMENDED
2008-0654-MK
12/15/08 KO

ALERT COPY

~~CONFIDENTIAL~~

NOT TO BE REPRODUCED WITHOUT THE
AUTHORIZATION OF THE EXECUTIVE SECRETARY

SECURITY ISSUES IN THE TWO-PLUS-FOUR

POINTS TO BE MADE

1. While political-military issues are part of the formal Two-Plus-Four agenda, our strategy should be to minimize constraints on a unified Germany's sovereignty.
2. Need to discuss and prepare Western positions in order to resist Soviet pressure on security issues.
3. Must identify the fora in which we should discuss the various security-related issues.
4. Discussion must begin soon, both among the Four Allies and at NATO, on how Articles 5 and 6 are to apply to current GDR territory.

WATCH OUT FOR

You may wish to begin this discussion by asking your German colleague the status of discussions in the German cabinet sub-group, headed by Genscher, that has been tasked to consider the security ramifications of unification. This will give you the entree to discuss some difficult questions within this group. Kastrup may resist committing himself squarely on some this; you and your counterparts will want to fix in his mind that, for the U.S. and other Allies, the security impact of unification is among its most important aspects, and that the Alliance needs to begin considering these issues soon -- both for operational reasons and to bring the Allies along with the process of unification.

1. While political-military issues are part of the formal Two-Plus-Four agenda, our strategy should be to minimize constraints on a unified Germany's sovereignty.

We have agreed that political-military issues will be discussed in the Two-Plus-Four. Clearly this is necessary, not least to assuage Soviet sensitivities that decisions not be made by fait accompli, but through thorough discussion among affected parties. Still, the Four Allies must ensure the Soviets do not make Two-Plus-Four consensus on the security parameters of a united Germany a quid pro quo for agreement to a peace settlement. Our position is that, while it is incumbent on a unified Germany to take note of the security

concerns of neighboring states, a sovereign Germany should be free to take decisions on the nature of its security framework and commitments. This includes the right to determine its Alliance membership; decide on the size of its Bundeswehr, within the constraints of arms control agreements; renew stationing/SOFA agreements with individual states; decide whether nuclear weapons will be allowed on German soil; and pledge adherence to the NPT, as a free and sovereign decision.

2. Need to discuss and prepare Western positions in advance in order to resist Soviet pressure on security issues.

Judging from both the Soviet presentation at the March 14 Two-Plus-Four and Soviet Central European Department Chief Bondarenko's April 4 presentation to Jim Dobbins, Moscow will offer a full-court press to resolve or or at least address security matters in the Two-Plus-Four. To prepare for this, the Four Allies need to come to terms on a strategy to resist Soviet pressure. This argues for full sharing within this small circle of German sub-cabinet discussions on security implications of unification, followed by full discussion of this issue among the Four Allies. (It would be useful to obtain Kastrup's agreement not only to carry back with him Allied views on security matters, but to avoid taking any decision on security matters without full Allied discussions, first within the One-Plus-Three, then within the Alliance.)

While we have no reason to think any of the Four Allies believes otherwise, we should confirm agreement that if the Soviets raise SNF we will turn this aside. This is an issue that should be addressed in the negotiations the Alliance has agreed will be undertaken post-CFE.

3. Must identify the fora in which we should discuss the various security-related issues.

In order to achieve a consensus on the broad principles and goals of unification, we must begin to categorize where we should address post-unity security arrangements. As noted above under point one, many security-related questions are for resolution by a sovereign, unified Germany, in consultation with its Allies. While a timetable for Soviet withdrawals from East Germany could be discussed within the Two-Plus-Four, final decisions ideally should be reached elsewhere. Holik told Bartholomew last week that the FRG wants this to be taken up in the context of CFE II. We would have no objection to this as it provides a convenient multilateral cover for the Germans. If need be, we probably can accept the Two-Plus-Four noting a sovereign German decision that assigned NATO forces will not be stationed on GDR territory during a transitional period.

However, we must make clear that such special arrangements for former GDR territory are of a transitional nature, to allow for Soviet troop departure, and should avoid allowing the Soviets a veto over Germany's right to exercise full sovereignty. CFE negotiations will have to take into account the impact those withdrawals will have on the multilateral talks.

4. Discussion must begin soon, both among the Four Allies and at NATO, of how specifically Articles 5 and 6 are to apply to current GDR territory.

The application of Articles 5 and 6 (and less importantly WEU Article 5) to a unified Germany without deploying NATO troops or Bundeswehr troops assigned to NATO will be among the most complex issues to be resolved. These issues do not belong in the Two-Plus-Four as they are strictly Alliance matters. The British are keen to clarify these issues and you can expect Weston to take the lead in pressing the follow sort of questions:

- o If not by NATO forces, how would former GDR territory be policed and protected during the transitional period?
 - Could some sort of special German border troops, or a lightly-armed, non-Bundeswehr German military force be created?
 - Is it possible to position some multinational forces (e.g., WEU) in the Eastern portion of Germany?
- o What type of air defense arrangements could be made?
 - How will GDR air space be defended (if not by NATO, by German air force?)
 - Are GDR runways sufficiently hardened for crisis deployments? How would such crises be defined?
- o What other logistical facilities would be needed in the GDR in the event of a crisis? How would they be developed?
 - Could stockpiles be prepositioned? If not, how would we allow for rapid supplies in a crisis situation?
- o Should German and/or NATO troops be allowed to conduct exercises periodically on GDR soil to be able to defend it?
- o How long will transitional arrangements be needed?

Drafted: EUR/RPM: BPHall
x8050 4/5/90 SERPMP-632
Cleared: EUR: JFDobbins
EUR: ATBohlen
EUR/RPM: RLCaldwell
EUR/CE: AGoodman/WMenold
S/P: RGeorge
P: PMcKinley
C: RNBurns

DRAFT

CONFIDENTIAL

THE SITUATION IN THE BALTIC STATES

POINTS TO BE MADE

1. The U.S. policy of nonrecognition of the forcible incorporation of the Baltic States and support for their self-determination remain unchanged, while we continue to support perestroyka and democratization in the USSR.
2. The Administration had engaged the Soviet Union in a number of high-level exchanges to reinforce these points.
3. Nevertheless, Moscow has kept up a steady pattern of pressure and intimidation against Vilnius. Threats have also been made against Latvia and Estonia. To help Gorbachev save face and end the confrontation, Lithuanians and other Balts, are willing to negotiate all issues related to achieving independence.
4. It is impossible to predict developing scenarios, but Soviet use of force assuredly would have direct and serious negative consequences on bilateral relationship.

WATCH OUT FOR

Some Europeans may be anxious not to get out in front on this issue and they may be concerned by Washington press stories that suggest a difference between public and private US policy toward the Baltics and the Soviet Union.

BACKGROUND

1. The U.S. policy of nonrecognition of the forcible incorporation of the Baltic States and support for their self-determination remain unchanged, while we continue to support perestroyka and democratization in the USSR.

The USG remains committed to nonrecognition and Baltic self-determination by peaceful means. At the same time, the President has expressed his personal commitment to the continued growth of democratization and perestroyka in the Soviet Union and the development of relations with Gorbachev. We have made clear our wish to continue the positive developments in East-West relations but are concerned about the impact of Soviet policy in Lithuania on the prospects for future progress.

DECLASSIFIED
PER E.O. 12958,
AS AMENDED
2008-0654-MK
12/15/08 RW

2. The Administration had engaged the Soviet Union in a number of high-level exchanges to reinforce these points.

The U.S. demarche to Western and Eastern European capitals Saturday March 24 laid out our general concern about the trend of political developments in the Baltic States, and Lithuania in particular. On March 25, Secretary Baker sent a personal message to Shevardnadze reiterating American support for the start of constructive negotiations between Lithuania and the Soviet Union. The Secretary discussed Lithuania in his Washington meetings with Shevardnadze last week.

On March 30, President Bush sent a message to Gorbachev reiterating the U.S. position on self-determination for Lithuania and support for perestroika in the Soviet Union. The U.S. position remains that Estonia, Latvia, and Lithuania were forcibly incorporated into the USSR in 1940. The U.S. does not recognize that incorporation. On March 30, Ambassador Matlock met with Yakovlev to reiterate our views.

In these messages the U.S. warned the Soviet Union not to use force and to begin addressing the legitimate rights of the Lithuanian people through negotiations. The Secretary has encouraged the Soviets to consider a referendum to move the self-determination process forward.

3. Nevertheless, Moscow has kept up a steady pattern of pressure and intimidation against Vilnius. Threats have also been made against Latvia and Estonia. To help Gorbachev save face and end the confrontation, Lithuanians and other Balts, are willing to negotiate all issues related to achieving independence.

Since the March 11 declaration on the restoration of Lithuanian independence, President Landsbergis and the Supreme Council of Lithuania have moved forward with the organization of the new government. A number of ministers have been appointed and various legislative committees organized. According to recent observers, more basic organizational work remains to be done. Landsbergis has issued a number of appeals for international support that have been answered in various ways. President Havel of Czechoslovakia has offered his good offices to assist in mediation efforts.

According to reliable sources, there is a remarkable degree of calm among the population and there have been few "incidents." Soviet military officers reportedly protested some rock throwing at one of their sentries and "rudeness" to some of their troops. The U.S. takes this lack of incidents as evidence of the self-discipline of the Lithuanian populace and the support which the new Lithuanian government continues to

enjoy. The Lithuanians have toned down their rhetoric, indicated a willingness to hold some type of referendum, and demonstrated their desire to defuse tension and begin a dialogue with Moscow.

Moscow has reacted sternly to the Lithuanian events, and continued efforts to isolate Lithuania. Soviet military and KGB forces have put on conspicuous maneuvers and demonstrations. General Varennikov, CINC Soviet ground forces, was in Vilnius (until very recently) and there has been a noteworthy increase in the numbers of Soviet armored vehicles.

Using his new powers as president, Gorbachev ordered that all weapons be handed in to the Soviet military and stated that Soviet rules will be enforced in Lithuania. Soviet troops have seized party buildings, the procurator's office and a printing plant. The Lithuanian-appointed procurator was dismissed by Moscow and the Lithuanian staff which refused to work with the outsider have been locked out.

Two American diplomats based in Leningrad but visiting Vilnius were ordered out of Lithuania under a twelve-hour deadline and they complied. All Moscow-based foreign journalists were ordered out of Lithuania last weekend and all travel to Lithuania by foreigners has been stopped by the Soviets. However, we understand that some independent journalists and reporters have remained.

There are reports of a visa blacklist of Lithuanian Americans drawn up by Soviet members of the pro-Moscow communist party in Lithuania. On April 3 the Polish-Lithuanian border was closed, and four pro-Sajudis newspapers were barred from their normal printing plant.

In Estonia and Latvia recent elections to the republic Supreme Soviets have returned pro-independence pluralities in both states. Additional runoff elections are expected to increase the margins in favor of radical change.

The Popular Fronts' legislative leadership in both countries will likely attempt more conservative steps toward independence, as exemplified by the Estonian Supreme Soviet's declaration last week of a "transitional period to independence." Nevertheless, it seems clear that the commitment to self-determination is as strong among the native populations in those two countries as it is in Lithuania. Demographics are a concern: Latvians comprise 52 percent of their country, and Estonians 61 percent of theirs.

The political picture in Estonia is unique. The Congress of Estonia, based on the Citizens Committee movement and comprised almost completely of ethnic Estonians, is contending for legitimacy and authority with the Popular Front and the old

soviet system. There is some joint membership among the various group leaderships but the actual correlation of political forces is hard to determine. In recent Supreme Soviet elections, Popular Front candidates and allies won over half of the 105 seats in the legislature.

Latvia has perhaps the greatest need to proceed cautiously given the large numbers of non-Latvians in the country. However, pro-independence candidates of the Popular Front and related groups did very well in the Supreme Soviet elections in which all eligible voters participated. They did well in both rural and urban areas and are expected to add to their margin in runoff balloting. Some 170 out of 201 seats were decided in the first balloting. Popular Front candidates and allies won 127 outright. Moscow loyalists took 50. Runoffs will decide the rest.

4. It is impossible to predict developing scenarios, but Soviet use of force assuredly would have direct and serious negative consequences on bilateral relationship.

One cannot predict with accuracy the course of events in this complicated multi-dimensional chessboard of Baltic politics. The Baltic peoples are resolutely committed to the pursuit of independence, at as fast a pace as the system will allow. Moscow seems committed to slowing down or derailing those efforts. However, all parties realize that violent confrontation would serve no one's interests.

The Soviets have continued to renew their pledge to not use force to solve Baltic differences. However, Gorbachev qualified his pledge when he told Senator Kennedy that he would not use force in the Baltics "unless lives were threatened."

The U.S. has told the Soviets that any use of force to quell peaceful dissent in the Baltic States would have direct and negative consequences for the bilateral relationship. The U.S. continues to urge both parties to engage in genuine negotiations.

The Baltics should not become a divisive issue NATO. The alliance should continue to be supportive of Baltic efforts toward self-determination and ready to find a way for peaceful resolution of the conflict that takes into consideration the rights of the Baltic peoples as well as the legitimate interests of the Soviet Union. The way to do this is to emphasize Baltic exceptionalism; i.e., that the Baltics' claims for independence have a juridical basis which differentiates them from the Soviet republics.

~~CONFIDENTIAL~~

-- 5 --

Drafted:EUR/EEY/Baltic Desk:JWZerolis
4/6/90, x70757, 1450 (Derived from NAC cable)
Clearance:EUR/EEY:JRHoooper
EUR/EEY:JWSwihart
EUR/SOV:RStephenson
INR/SEE:JScotti(subs)
EUR:CKamman

~~CONFIDENTIAL~~

CSCE SUMMIT

POINTS TO BE MADE

1. A Western agenda for Summit must factor in: a) direction of follow-on security negotiations; b) our desiderata for Baskets II and III; c) extent to which we should broaden and deepen the CSCE process; and d) whether/how to address German unification question.
2. Bonn/Copenhagen provide opportunities to consult informally at 35 on Summit; but agreement on outstanding CFE issues should precede a possible pre-Summit prep meeting.
3. Strongly urge continued close consultation within NATO on all aspects of CSCE and Summit.

WATCH OUT FOR

Our maneuvering room -- and that of the Allies -- is fast disappearing due to collective decisions taken by EC ministers. Perhaps most worrisome, the EC has put forward an accelerated schedule of Summit preparations, to begin no later than July, and has endorsed Hungary's proposal that CSCE ministers meet in Budapest at the end of the April 23-May 12 Open Skies Conference to begin preparing a CSCE Summit. We, on the other hand, have reaffirmed our position that a Summit prepcon should not take place until all substantive CFE issues are resolved.

Against this background, you will want to urge a more measured pace of preparations, with agreement among the Allies on an approach to the Summit to precede broader preparations among the 35. The French, of course, can be expected to resist such a course of action; you may find some resistance from the others as well, given their EC bias.

BACKGROUND

1. A Western agenda for Summit must factor in: a) direction of follow-on security negotiations; b) our desiderata for Baskets II and III; c) extent to which we should broaden and deepen the CSCE process; and d) whether/how to address German unification question.

There is general agreement that a Summit should sign CFE, although some of the Allies (including the British) do not want that to be a precondition for the Summit (which they see as valuable in and of itself). On CSBMs, the U.S. would like to reach an agreement at the Summit on whatever measures have achieved consensus by that point, continuing the negotiations post-Summit until the 1992 Helsinki Review Conference. The

~~CONFIDENTIAL~~
DECL:OADR

DECLASSIFIED
PER E.O. 12958,
AS AMENDED
2008-0654-MK
12/15/08 W

~~CONFIDENTIAL~~

- 2 -

larger question is the form and substance of what follows CFE and CSBMs, i.e., whether there should be one or separate negotiations, whether the negotiation(s) should be among the 23 members of East/West military alliances or the broader 35 CSCE members, and on what the negotiation(s) should concentrate. Both USG and Alliance positions remain to be worked out.

Our market principles for the Bonn Economic Conference and an elaborated U.S./U.K. proposal on free elections are our principal Basket II/III desiderata. The British have offered to draft a paper on elections for NATO's Summit planning group. Many of Genscher's proposals also fall into Baskets II and III: an institution to coordinate East-West economic cooperation; a European environmental agency; extension of EUREKA cooperation to all of Europe; collaboration between the European Space Agency and corresponding Eastern institutions; a center to develop European telecommunications; a center to develop European transport infrastructure and policies; a pan-European transport infrastructure and policies; a pan-European institution for the protection of human rights. While we don't like to appear as nay-sayers, many of these ideas strike us as likely to be costly, duplicative of existing organizations, excessively Euro-centric, and overly bureaucratic. You should urged that we work together at NATO to pare down this and other laundry lists into a manageable and coherent package. While some ideas could be adopted at the Summit, most should be remanded for further consideration at the 1992 Helsinki Review Conference.

Aside from these, several ideas on political contacts and CSCE organization are on the table. These include more regular meetings at the Summit, ministerial, and/or political director levels; a more regularized schedule of meetings, with specific ending dates; and creation of a modest CSCE Secretariat, to help organize meetings and serve as a CSCE depository and information center. These and other ideas will have to be scrutinized in the run-up to the Summit even if they are not ripe for action by that point.

The German unification process clearly will dominate the European landscape throughout 1990. For those countries not otherwise involved, the CSCE Summit offers an opportunity to "participate" at least in the culmination of unification. Neither we nor our Two-Plus-Four Allied partners want the results of the Two-Plus-Four to be opened up to the 35. Our preferred approach would be for the Summit to take note of progress toward unification achieved by that point. If unification is, by then, a done deal, the Summit will simply need to note the reduction in the number of CSCE participants.

~~CONFIDENTIAL~~

2. Bonn/Copenhagen provide opportunities to consult informally at 35 on Summit; but agreement on outstanding CFE issues should precede a possible pre-Summit prep meeting.

We are working on a gameplan for CSCE Summit preparations, designed to put forward an alternative to the growing pressure for ministers to address CSCE Summit issues on the margins of the Budapest Open Skies conclusion (which the Secretary has not committed himself to attend). In the meantime, you may wish to suggest that the Copenhagen conference will offer ample opportunity for discussions among the margins regarding the Summit, and that, in the meantime, we should devote our attention to reaching a CFE agreement and consensus within NATO on a Summit approach.

3. Strongly urge continued close consultation within NATO on all aspects of CSCE and Summit.

It is a basic tenet of the CSCE process that Baskets I, II and III are inextricably linked. This follows logically from the proposition that all CSCE activities -- arms control and confidence-building measures, human rights principles or economic cooperation -- are intended to create a security community based on an interwoven set of cooperative relationships in as many areas as possible. This makes all of CSCE relevant to the work of NATO and is the basis for our efforts to coordinate western positions on CSCE in that forum. (France contends that only security issues should be discussed at NATO, and that the security basket of CSCE is the province of the HLTF, not of NATO's CSCE Summit working group.)

While we of course support EC consultation on CSCE matters, we have problems when the EC's decisions become faits accomplis that make it difficult for us to make our views felt as well. These problems came particularly to light before and during the Bonn Conference, with EC states resisting any changes to their draft concluding document, and resisting incorporation of even a scaled-back version of our principles therein. While we were able to iron out our disagreements in the end, this is the kind of dispute we wish to avoid.

Drafted: EUR/RPM: MGuest *MA*
4/6/90; 78050
SERPMP 647

Clearance: EUR:ATBohlen *MA*
EUR/RPM: MLeeson *MA*
EUR/CE: JSeymour *MA*

SOUTH AFRICA

POINTS TO BE MADE

1. Secretary Baker's recent visit reflected our commitment to staying in touch with all the parties to encourage the democratization process.
2. The process of change that has emerged in South Africa since F.W. de Klerk became president is real; the South African government is ready for negotiations and the opposition is getting there.
3. All sides must exercise their leadership to keep violence from derailing the negotiating process, and take the final steps toward negotiations with flexibility and a commitment to making the process work.
4. The focus should be kept on the process inside South Africa and not on sanctions. But each of us with sanctions should proceed to recognize progress there in the manner allowed by our own individual circumstances.
5. There is a need for outside assistance to help prepare disadvantaged South Africans for leadership positions in a post-apartheid society, support the democratization process, and strengthen democratic and free market values.

WATCH OUT FOR

The UK may not feel it has been given much support by the allies for its initial lifting of sanctions on South Africa. We did support HMG through demarches to the EC before the February 20 Dublin ministerial and in a letter from President Bush to Prime Minister Thatcher noting we believe each of us should be able to proceed to recognize progress in South Africa in the manner allowed by our own individual circumstances. But we did not encourage the UK to take the initiative. There should be broad agreement with our positive assessment of de Klerk and the prospects for negotiations, and with our intention to not move the goalposts set for the SAG.

DECLASSIFIED
PER E.O. 12958,
AS AMENDED
2008-06 54-MK
12/15/08 KO

~~CONFIDENTIAL~~
DECL: OADR

BACKGROUND

1. Secretary Baker's recent visit reflected our commitment to staying in touch with all the parties to encourage the democratization process.

Secretary Baker's meeting with Nelson Mandela in Windhoek and his March 22-23 visit to South Africa for meetings with government and black leaders were intended to demonstrate our strong support for the emerging democratization process in that country, and to encourage all parties to get on with negotiations. The visit strengthened our conviction that both sides are blessed with pragmatic and thoughtful leadership, which is committed to pursuing peaceful political change. SAG leaders assured us that they want to move quickly, and have embarked on an irreversible course. (Foreign Secretary Hurd will have heard the same thing during his visit a few days earlier). Opposition leaders were grateful for external support, and in agreement that de Klerk deserves encouragement (despite muted concern that high-level visits were premature). Both Mandela and de Klerk confirmed their interest in accepting President Bush's outstanding invitations to visit the US, but no dates have been set. (Mandela is apparently finalizing plans for May travel to various west European capitals, but no schedule has been announced).

2. The process of change that has emerged in South Africa since F.W. de Klerk became president is real; the South African government is ready for negotiations and the opposition is getting there.

Following his far-reaching steps to normalize political life, including unbanning the ANC and releasing prominent political prisoners, de Klerk is pressing for negotiations with black leaders to forge a new constitution incorporating universal suffrage, equal opportunity, and equal political, social and economic rights. De Klerk accepts the necessity of power-sharing and some form of majority rule. The legislative "pillars of apartheid" remain in place, but the SAG seems prepared to dismantle them in the context of negotiations. The new budget contains the first shift of spending priorities from the military to increased social spending on blacks. The National Party leadership appears to have recognized that any attempt to meet white concerns about the future through the concept of racially defined groups is unacceptable to the black majority. The opposition inside South Africa was unanimous in its view of de Klerk as a man of integrity, and his wide-ranging meetings in Windhoek with African and world leaders showed that the international community is also beginning to acknowledge his sincerity. De Klerk assured

Secretary Baker in Cape Town that it was the ANC, rather than the SAG, that had been dragging its feet about beginning talks on how to remove remaining obstacles to negotiations. The ANC subsequently postponed the formal "talks about talks" that were originally scheduled for April 11 as a protest gesture against recent killings of blacks by police, but this appears to be a temporary setback, and Mandela met with de Klerk on April 5. We believe that the ANC leadership is committed to pursuing the negotiations option.

3. Both sides should be encouraged to take the final steps toward dialogue and to enter eventual negotiations with flexibility and a commitment to making it work.

The Secretary pressed hard on the need to continue fostering a positive climate for negotiations by lifting the state of emergency and releasing all remaining political prisoners. De Klerk appeared committed to doing both, but saw a need for cooperation from the opposition in maintaining public order and expected that agreement on prisoner release would emerge out of negotiations. Meanwhile, all sides need to be pressed to assert their leadership forcefully to discourage violence, and not allow it to derail the negotiating process. The ANC also needs to be cautioned against relying on outdated rhetoric about nationalization and breaking diplomatic relations with South Africa. But there are signs that, despite the persistence of hardline ideology, the ANC is prepared to be flexible on key negotiating issues. It has committed itself to multi-party democracy, individual rights and a mixed economy. Mandela did not disagree when Secretary Baker urged that the ANC study the failure of planned economies around the world; he listened politely when the Secretary stressed his own conviction, reflecting service at Treasury, that free market economies best serve the people. Beyond the ANC, the UDF, COSATU and Inkatha will almost certainly have major roles in negotiations. There are rivalries between the leaders and memberships of all four organizations--and between generations.

4. The focus should be kept on the process inside South Africa and not on sanctions. But each of us with sanctions should proceed to recognize progress there in the manner allowed by our own individual circumstances.

There was little discussion of sanctions during the Secretary's trip in any of his meetings (although anti-apartheid groups clearly want pressure to be maintained).

That approach reflected our belief that the focus should be kept on facilitating the process inside South Africa, rather than stimulating international debate over sanctions. Current progress in South Africa has shelved Congressional initiatives for tightened sanctions, and the Administration is committed to enforcing the terms of the existing Comprehensive Anti-Apartheid Act, and not moving the goal posts. South Africa has not yet met all CAAA requirements, including release of political prisoners and lifting of the state of emergency. But when those steps are taken, as we expect they will be, the Administration will consult with Congress on an appropriate response. We feel that it is appropriate for each of us with sanctions on South Africa to proceed to recognize progress there in the manner allowed by our own individual circumstances. We believe that the focus of the UN Secretary General's scheduled July 1 report on South Africa (mandated by last December's Special Session on Apartheid) must be kept focussed on encouraging the negotiations process emerging inside South Africa and not sidetracked into debate over how to handle international sanctions.

5. There is a need for outside assistance to help prepare disadvantaged South Africans for leadership positions in a post-apartheid society, support the democratization process, and strengthen democratic and free market values.

We are continuing our program of over \$30 million a year in aid to disadvantaged South Africans, with the largest part for scholarships for them to attend institutions at home and in the US. Our objective has been to hasten an end to apartheid and help prepare leaders for a post-apartheid society. But we are starting to consider what steps we could take more directly to support the democratization process and help instill democratic and free market values. The Secretary has expressed interest in considering support to various programs through the National Endowment for Democracy. Legislation has been put forward on the Hill that would allocate \$10 million to support programs and activities of organizations to encourage negotiations leading to a peaceful transition to a genuine democracy based on universal suffrage within a united South Africa. Mandela mentioned the problem of housing as one which will need outside financing as exiles return from abroad. We would encourage others to consider how they can help support the process of democratization.

~~CONFIDENTIAL~~

- 5 -

Drafted: AF/S:AMcKee/GGallucci
4/5/90 wl44k x79852
Cleared: AF/S:RPerito
P:MMcKinley
C:CSchroeder
EUR/RPM:MGuest
S/P:WKansteiner
AF:JDavidow

~~CONFIDENTIAL~~

POSSIBLE FORM OF A SETTLEMENTScope

Should serve as a framework for addressing

- Unification
- Borders
- Four Power Rights and Responsibilities for Berlin and Germany as a whole
- A Settlement itself

A. A Preferred Solution

From our interpretation of the legal requirements stemming from the wartime and post-war agreements and the 1955 Convention on Relations between the FRG and the three Western Allies, a settlement could consist of a brief and single document. In it, the Four Powers would declare they were exercising and/or renouncing in favor of a united Germany their remaining rights and responsibilities. The Four Powers would explicitly recognize unification in some fashion. To meet Polish and others' concerns about borders, they should approve Germany's borders and state that Germany's borders to be consisting of the present territory of the FRG, GDR and Berlin.

The Four Powers might also renounce all rights and responsibilities and repeal all Allied legislation pertaining to Berlin. To make clear that there were no outstanding rights and responsibilities, they might expressly renounce all other rights and responsibilities.

Finally, such a document should have the word "settlement" in its title, which might read "A German Settlement" or "A Settlement on Germany". Since it would be the product of agreement among the Four and Germany, it would not have to meet any criteria other than those to which they all agree. For finality's sake, the document should evidence the parties' intent that it be binding under international law.

Such a document, or any other document(s) that the "Two-plus-Four" might agree upon, should be consistent with the following criteria:

~~CONFIDENTIAL~~
DECL:OADR

DECLASSIFIED
PER E.O. 12958,
AS AMENDED
2008-0654-MK
12/15/08 KO

- Not be called a peace treaty.
- Be recognized as serving the functions of a peace settlement.
- Have sufficient legal and political force to satisfy Poland and Germany's other neighbors on final borders, without involving us in military guarantees of those borders.
- Leave Germany free to choose its security alignments, i.e. remain in NATO and WEU.
- Not impose any new limitation on German sovereignty. Any limitations (e.g. renunciation of ABC weapons) that the new German state is prepared to support will be contained in a settlement.
- Leave unprejudiced all claims arising from World War I and World War II, without mentioning claims in agreement.
- Not restrict ability of US, UK and France to negotiate agreements with Germany for stationing of troops in Berlin and access to Berlin; not restrict ability of US and Allies to renegotiate current stationing rights in the FRG.
- Should leave Germany and USSR free to conclude bilateral economic agreements that address GDR commitments to the Soviets, taking account of the FRG's COCOM obligations. Should not commit US, UK and France to any obligations in such agreements.

B. A Possible Compromise

We expect that the Soviets -- and possibly the British and French -- will insist on a more comprehensive structure. The Soviets in particular may feel that their acceptance of a new status for Germany requires a document or documents in which their participation in the negotiation of, and assent to, the arrangements is visible.

For their part, the Germans might resist the concept that the Four Powers can "approve" its borders and we may need to accept instead the concept of Two-plus-Four "affirming" the borders.

Described below is a structure of documents which might be acceptable to the Soviets and which would still be consistent with the features described above.

Structure

- o A single document having all the above features may not be attainable:
 - Germans likely to object as looking too much like a peace treaty.
 - Might involve countries outside Two-plus-Four (i.e. Poland) in all aspects of settlement.
 - Would lessen needed flexibility and possible deliberate ambiguity.

Documents

- o Umbrella Settlement Document on Germany (in Two-plus-Four)
 - Might be agreed to in Two-plus-Four by the FRG, GDR and the Four Powers, for later signature by the latter with Germany.
 - Signatories would declare their agreement to settle matters left unresolved among them.
 - Would reaffirm signatories' commitment to abide by CSCE commitments in their relations with each other.
 - Unification plans of the Germanys would be endorsed.
 - The Four Powers would turn over remaining Four-Power rights and responsibilities for Germany as a whole and for Berlin and repeal all Allied legislation pertaining to Berlin.
 - Would affirm existing borders of the FRG, GDR and Berlin as constituting the legal territory of the united Germany.

Related Agreements

As decided in the negotiating process, some of the following documents might have references to the umbrella settlement document.

- Exchange of notes/declarations on borders with Poland by each of Four Powers taking note of or endorsing German-Polish border treaty.
- Statement by Germany and Four Powers to other CSCE signatories inviting them to take note of Settlement Document. (Negotiated in Two-plus-Four.)
- CSCE Summit statement should take note of results/progress in Two-plus-Four and, if Germany is by then unified, of CSCE's membership shrinking to 34 (to be discussed in Two-plus-Four).
- Individual bilateral agreements or a quadrilateral one between Germany and US, UK and France on stationing forces in Berlin and providing access to city. An alternative might be an agreement extending to Berlin existing Allied/FRG stationing agreements, which would take effect upon the termination of Allied rights and responsibilities for the city. (Not to be discussed in Two-plus-Four.)
- A unilateral German declaration that the unified country adheres to NATO and WEU and making specific temporary arrangements with respect to GDR territory. (To be discussed but not decided in Two-plus-Four).
- A NATO statement endorsing the German declaration and the temporary GDR territory arrangements.
- Bilateral German/USSR agreement on temporary stationing of Soviet troops on GDR territory (to be discussed by Allies with FRG and GDR). Should not deal with troop levels but would deal with practical arrangements, e.g. financing, legal provisions.
- Possible bilateral agreements between Germany and each of Four Powers governing continuation of MLMs as confidence-building/liaison units. (Discussed in Two-plus-Four)

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
13s. Paper	Germany Task Force Paper: Berlin Garrison [SENT FOR AGENCY REFERRAL] (7 pp.)	03/29/90	(b)(1)	S

Collection:

Record Group: Bush Presidential Records
Office: National Security Council
Series: Blackwill, Robert D.
Subseries: Subject File
WHORM Cat.:
File Location: [German Reunification 11/89-6/90] [2]

Date Closed:	9/15/2003	OA/ID Number:	CF00182-021
FOIA/SYS Case #:	2001-1166-F	Appeal Case #:	
Re-review Case #:		Appeal Disposition:	
P-2/P-5 Review Case #:		Disposition Date:	
AR Case #:		MR Case #:	
AR Disposition:		MR Disposition:	
AR Disposition Date:		MR Disposition Date:	

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P-1 National Security Classified Information [(a)(1) of the PRA]
 P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
 P-3 Release would violate a Federal statute [(a)(3) of the PRA]
 P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
 P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
 P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

Freedom of Information Act - [5 U.S.C. 552(b)]

(b)(1) National security classified information [(b)(1) of the FOIA]
 (b)(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
 (b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
 (b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
 (b)(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
 (b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
 (b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
 (b)(9) Release would disclose geological or geophysical information

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
13t. Paper	Germany Task Force Paper: Berlin Assets [SENT FOR AGENCY REFERRAL] (5 pp.)	03/29/90	(b)(1)	S

Collection:

Record Group: Bush Presidential Records
Office: National Security Council
Series: Blackwill, Robert D.
Subseries: Subject File
WHORM Cat.:
File Location: [German Reunification 11/89-6/90] [2]

Date Closed: 9/15/2003	OA/ID Number: CF00182-021
FOIA/SYS Case #: 2001-1166-F	Appeal Case #:
Re-review Case #:	Appeal Disposition:
P-2/P-5 Review Case #:	Disposition Date:
AR Case #:	MR Case #:
AR Disposition:	MR Disposition:
AR Disposition Date:	MR Disposition Date:

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P-1 National Security Classified Information [(a)(1) of the PRA]
 P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
 P-3 Release would violate a Federal statute [(a)(3) of the PRA]
 P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
 P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
 P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

Freedom of Information Act - [5 U.S.C. 552(b)]

(b)(1) National security classified information [(b)(1) of the FOIA]
 (b)(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
 (b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
 (b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
 (b)(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
 (b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
 (b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
 (b)(9) Release would disclose geological or geophysical information



United States Department of State

Washington, D. C. 20520

APR 6 1990

INFORMATION MEMORANDUM

~~SECRET~~

S/S

TO: C - Mr. Zoellick

FROM: EUR - R. G. H. Seitz *RS*

SUBJECT: Four-Power Rights and Three-Power Responsibilities
in Berlin

SUMMARY

Termination of Four-Power rights in Berlin is one of four key components of any German settlement. Berlin is already on the Two-plus-Four agenda. However, termination of Four-Power rights in Berlin is almost the only Berlin issue we want to discuss in this forum.

Prior to the termination of Four-Power rights in Berlin, there are a number of areas in which the Three Powers will need to act to prepare for the transition. The active Allied role in the city, coupled with continued Soviet rights, makes these other Berlin issues some of the most complicated the Allies have to work out with the FRG.

Nonetheless, resolution of these issues should be pursued expeditiously in order not hold up the overall settlement.

FOUR-POWER RIGHTS AND THREE-POWER RESPONSIBILITIES

There are no Three-Power rights. Only the Four Powers can terminate all Four-Power rights for Berlin. (The relationship between the termination of Berlin rights and the other aspects of a settlement as well as the options for a settlement are dealt with in other papers.)

Apart from termination of Four-Power rights, however, there are areas in which Three-Power action -- in keeping with Allied responsibilities for Berlin -- is desirable prior to the termination of Four-Power rights for the city.

~~SECRET~~
DECL:OADR

DECLASSIFIED
PER E.O. 12958,
AS AMENDED
2008-0658-MR
03/10/2010 MM

Some of these areas will require intensive One-plus-Three consultations, both at the policy and at the technical level to reach agreement on the steps necessary to prepare for the situation after unification. In addition, there are also some areas in which bilateral consultation and agreement between the FRG and the U.S. will be necessary.

We will want to avoid discussing any of these One-plus-Three or bilateral issues in the Two-plus-Four forum because such discussion would give the Soviets an opening to play a role that is otherwise not available to them. (We want to ensure that there is no opportunity for the Soviets to equate their presence in the GDR with the Allied presence in Berlin.)

AVIATION

Aviation cuts across all categories. Therefore, before taking up Berlin issues that can be handled almost exclusively in one forum (Four-Power, Two-plus-Four, Three-Power, One-plus-Three, or bilateral), we want to discuss aviation issues as a group and the aspects of aviation that should be handled in each forum.

I. Four-Power Responsibility: The BASC

There is only one institution of active Four-Power collaboration in the city that must be dismantled as part of the termination of Four-Power rights -- the Berlin Air Safety Center (BASC). Decisions concerning the BASC can be taken in Four-Power or Two-plus-Four fora. No Allied or FRG preference has yet been expressed concerning where to handle the BASC.

- o In the BASC the Three Powers notify the Soviets of flights in Quadripartite air space over the GDR (i.e. the Corridors and the Berlin Control Zone (BCZ) over the city).
- o The Soviets also inform the Allies in the BASC of Corridor air space reservations they make for the purpose of military exercises.
- o If there is an interim period, prior to renunciation of Four-Power rights and unification, it may make sense to augment the BASC with FRG and GDR representatives for coordinating flights to Berlin.

~~SECRET~~

- 3 -

- It would also make air safety sense to establish a link between Allied air traffic controllers in BARTCC (Berlin Air Route Traffic Control) and GDR air traffic controllers at Schoenefeld for coordinating flights to Berlin.
- o The FRG may also want to make preparations to take over air traffic control responsibilities in the city after unification, including possibly the purchase of equipment. (There may be an aspect of this issue that touches on the Berlin assets issue.)
- o If the BASC is going to play such an interim role, it would make sense to treat it in Two-plus-Four, supplemented by the appropriate experts.

II. Four-Power Rights: The Corridors

- o Lufthansa and the German government would like to fly to Berlin, both inside and outside the Berlin Air Corridors. (See Task Force paper on Aviation.)
 - In the interim, before the renunciation of Allied rights, steps to open the Corridors to non-Allied carriers would require consulting the Soviets.
 - We would not want to involve the Soviets in any aspect of the changes -- such as approval of which airlines can fly -- except those touching on Four-Power rights relating to the operation of the Corridors.
- o The French have resisted consulting trilaterally with the Soviets and have favored Two-plus-Four discussions.
 - There is no FRG preference as yet about whether to discuss aviation in Two-plus-Four or separately in Four-Power consultations.
 - Nor have we and the British expressed a preference.
- o Once there is an Allied/FRG consensus on the desired changes and the modalities of approaching the Soviets, we will probably want to move forward on the Corridors, whatever the status of other issues. There is no linkage at present between these changes in the operation of the Corridors and other issues.

~~SECRET~~

~~SECRET~~

- 4 -

III. One-plus-Three: Transitional Role for Allied Airlines

- o What the Allies are looking for from the FRG in One-plus-Three consultations, prior to going to the Soviets about changes in the Corridors, are commitments guaranteeing a transitional role for Allied carriers during the interim period between the introduction of Lufthansa flights and the termination of Four-Power rights.
- o The major carriers want to continue their inner-German service in any transition period, but recognize the problems with continuing after unification -- namely that this would be cabotage (domestic passenger service) and the Germans would ask for reciprocal rights in the U.S. (and France and the UK).

IV. Bilateral Aviation Issues: Rights After Unification

- o On a bilateral level, we may want to take up with the FRG the situation of U.S. air carriers after the termination of Four-Power rights.
 - This would be separate from (1) the Four-Power status issues connected with the Corridors and (2) the issue of Three-Power equality of competition in any interim arrangements after the introduction of Lufthansa.
- o U.S. air carriers do not have the same long-term prospects as British and French carriers since we are not members of the EC and our carriers will not have cabotage rights in the post-1992 European Community.
- o U.S. carriers' interests after the termination of Four-Power rights should be folded into our regular bilateral commercial aviation relations with the FRG.
 - However, all U.S. airlines will all want to safeguard their investment.
 - Pan Am is the most exposed. It is seeking a German buyout. Lufthansa wants the German government to foot some of the bill.

~~SECRET~~

~~SECRET~~

- 5 -

- TWA is less involved in the inner-German service. It hopes to benefit by keeping its foot in the door of what it predicts will be an expanding market and a trans-Atlantic European hub.
- The two minor carriers, Air Berlin and Tempelhof Airways, are both based in Berlin and can best continue if they find German owners.

TWO-PLUS-FOUR DISCUSSION: TERMINATION OF RIGHTS

The only Berlin issue that must be handled in Two-plus-Four is the termination of Allied rights and responsibilities for Berlin. Agreeing on transitional arrangements for the BASC and on changes in the operation of the Corridors, as noted above, are Four-Power issues. They do not have to be discussed by Two-plus-Four unless the Western Powers all agree to do so.

At present, besides the changes in the operation of the Corridors, there is one other area in which the Germans desire interim changes in Berlin status, prior to the termination of Four-Power rights: Berlin voting.

BERLIN VOTING: FOUR-POWER ASPECT

Because of the Four-Power status of the city and Allied obligations under the Quadripartite Agreement of 1971, the Three Powers will need to consult with the Soviets on this change. However, these consultations do not have to take place within the Two-plus-Four framework.

- o Both the Berlin Senat and the FRG have asked that Berliners be allowed to elect their representatives in the Bundestag directly and that these representatives have full voting rights.
- o The French want to raise this issue in Two-plus-Four. Dumas has already taken the issue up unilaterally with the Soviets and has indicated to the Soviets that France intends to raise the issue in Two-plus-Four.
- o The Germans have recommended that the Three not raise the issue in Two-plus-Four but do not oppose our consulting the Soviets.

~~SECRET~~

~~SECRET~~

- 6 -

- o We and the British agree on the need to consult the Soviets, without giving them a veto, and have agreed to talking points for a direct Allied demarche. We see no need to involve the GDR or to consult in Two-plus-Four in front of the FRG.
- o The Soviets have not yet been formally approached by the Allies on this issue. Publicly, they have reiterated their Four-Power right to be consulted and stated their opposition.
 - They have reportedly indicated to Governing Mayor Momper the possibility of some flexibility if laws continue to be adopted separately in Berlin and the FRG.
 - Shevardnadze gave an equivocal answer to Dumas on March 30.

THREE-POWER ISSUES

There are three areas where the Three Western Powers will need to work with the FRG to have new arrangements in place prior to the termination of Allied rights for Berlin. Other papers have addressed some of these issues in detail:

I. Berlin Garrison

- o If the Germans want Allied troops to remain in Berlin, they will probably want to have a new stationing agreement in place so that the Four-Power rights that provide the legal basis for the troops' present presence can be terminated. (See Task Force paper on the "Berlin Garrison.")
- o A new stationing agreement/SOFA for Berlin will require a One-plus-Three negotiation or a bilateral negotiation with the Germans.

II. Berlin assets

- o Agreement needs to be reached both by the Allies both jointly and separately with the Germans on the disposition of common and individual Allied assets in the city. (See Task Force paper on "Berlin Assets.")

~~SECRET~~

~~SECRET~~

- 7 -

- o We seek an orderly return to the Germans of non-removable assets of the U.S. Command, Mission, and of the Allies.
- o The Soviets may claim a say in the return of Allied assets such as the ACA building. For such assets in the Western Sectors of Berlin, we should inform the Soviets about their disposition but not let them make Allied assets a stumbling block to a settlement.
- o The more difficult and extensive negotiation will be with the Germans with regard to the retention of those assets necessary for an ongoing Allied troop presence.
 - Issues will include (1) confidentiality of Allied and U.S. classified documents provided to German authorities during Four-Power administration of Berlin, (2) new formulas for phasing out the Occupation Cost budget that has paid for many aspects of the Allied presence, and (3) employment of 15,000 Berliners employed by the Allies.

III. Allied law

- o The Germans need to be ready to fill the legal vacuum in Berlin when Allied law loses force as a result of the termination of Four-Power rights.
 - "Allied law" includes Military Government (SHAEF) legislation (1944-45), Military Government Zonal laws and ordinances (1945-49), Control Council legislation for all of Germany (1945-48), Four-Power (1945-48) and Three-Power (1948-present) Allied Kommandatura legislation for Berlin, and Sector laws, ordinances, and regulations for the individual Allied Sectors in Berlin.
 - All of these laws rest on Four-Power rights and lose force upon termination of those rights.
- o Making the legal preparations is almost exclusively an internal German task.
 - However, the Allies should stand ready to cooperate with the Germans as requested.

~~SECRET~~

~~SECRET~~

- 8 -

- o If the Germans desire changes in Allied law prior to the termination of Four-Power rights, the machinery is already in place. (For years, the Allies have engaged in the process of "Rechtsbereinigung," or making the law in Berlin consistent with German (FRG) practice.)

BILATERAL U.S. AGENDA IN BERLIN

Besides bilateral aviation issues, there are two other areas in which the U.S. and the FRG need to reach bilateral agreement in conjunction with unification.

I. RIAS

- o Radio in the American Sector, which operates under USIS auspices, will cease to exist unless a new basis can be found for it under German law.
- o The RIAS Intendant has proposed the formation of a bilateral foundation under international law to provide the basis for the corporation's continued operation.
- o The issue will be included in the Administration's review of the USG's international broadcasting activities.

II. The Berlin Document Center (BDC)

- o The BDC, which holds Nazi Party personnel records, is slated for transfer to the Germans when microfilming is complete (1994).
 - o We have no problem with the existing ad ref agreement.
 - o However, the Bundestag has pressured the FRG to secure earlier transfer, which presents both practical and political problems for us.
- The National Archives will not be prepared to receive the microfilm before 1995 at the earliest.

~~SECRET~~

~~SECRET~~

- 9 -

- The Department of Justice's Office of Special Investigations (OSI), which investigates Nazi war criminals, estimates its need for ready access will continue for another five years. Moves to transfer control prematurely would evoke criticism in the U.S.
- o We have explained our problems to the Germans and the ball is in their court. There are several options for interim arrangements that they might propose which we could accept.
- o Both the Soviets and the British have expressed a claim with regard to the disposition of the records -- so there is a potential Four-Power aspect to the transfer.
- We should inform the British, French, and Soviets of arrangements when transfer takes place, try to insure continued British and French access, but otherwise treat this as a purely bilateral issue.

Attachment:

Tab - Checklist: Where Berlin Issues Should Be Decided

~~SECRET~~

CHECKLIST

WHERE BERLIN ISSUES SHOULD BE DECIDED

Berlin Issues for Decision in Two-plus-Four

- o Termination of Four-Power rights.

Berlin Issues for Four-Power Decision

(requiring consultation with the Soviets but not necessarily in Two-plus-Four)

- o Disposition of the Berlin Air Safety Center (BASC)
- o Changes in the Berlin air corridor regime (French for inclusion in Two-plus-Four; no FRG, UK, or U.S. position, although we and the British are prepared to address the Soviets directly once a Western consensus is reached).
- o Berlin voting (French for inclusion in Two-plus-Four; we, the British, and the Germans favor direct approach to the Soviets)

Berlin Issues for Decision in One-plus-Three

- o Berlin Garrison: New stationing rights/SOFA (probable)
- o Disposition of Berlin assets (some also for bilateral decision)
- o Allied law (in cooperation with Germans)
- o Interim commercial arrangements for Allied air carriers

Bilateral Issues

- o Post-unification bilateral aviation
- o RIAS (Radio in the American Sector)
- o Berlin Document Center

~~SECRET~~
- 11 -

Drafter: EUR/CE:CB Skinner ^{WA}
4/4/90 647-2005 SECEEW2191

Cleared: EUR:JFDobbins ^A
EUR/CE:JM Seymour
EUR/CE:AAGoodman
L/EUR:TM Peay (subs)
EB/TRA:CAngvine
EB/TRA/AN:MJMowrey
S/P:RGeorge
P:ADWolff (info)
C:NBurns (info)

U for

~~SECRET~~



United States Department of State

Washington, D. C. 20520

MAR 29 1990

INFORMATION MEMORANDUM

S/S JFC

~~SECRET~~

TO: C - Mr. Zoellick

FROM: EUR - James F. Dobbins, Acting 

SUBJECT: The Quadripartite Agreement on Berlin


 JALS
 CBS

Summary

The 1971 Quadripartite Agreement ended the period of Berlin crises that had begun with the Cold War. It also created a four-power framework that included the city in the development of inner-German relations. With unification, inner-German relations will outgrow the four-power framework, unless a resolution can be found in the Two-plus-Four talks.

In the QA the Western Allies stated that Berlin was not a constituent part of the FRG and that it was not to be governed by Bonn. The Four Powers also agreed not to change the situation unilaterally. Provision was made for the development of ties between Berlin and the FRG, but not full integration -- at least not without Soviet consent.

Despite the fact that it did not resolve differences between the Western and Soviet views of the city's status, the QA worked well. The Soviets regularly protested increased ties between West Berlin and the FRG as attempts to make Berlin a constituent part of the FRG, but on the whole adopted a pragmatic approach to resolving problems.

Now we have reached the stage where integration is on the agenda. Soviet consent is needed -- and feasible. However, the Allied security guarantee, which had been one of the reasons for preserving the city's four-power status, remains necessary until the Soviet withdrawal from the GDR is complete.

The QA and Its Structure

The Quadripartite Agreement, signed on September 3, 1971 by Ambassadors, and the Final Quadripartite Protocol, signed on June 3, 1972 by Foreign Ministers, are among the last of the formal agreements concluded by the big four wartime allies.

~~SECRET~~
 DECL: OADR

DECLASSIFIED
 PER E.O. 12958,
 AS AMENDED
 2008-0658-MR
 03/10/2010 MM

~~SECRET~~

- 2 -

The QA consists of a preamble, three parts, a testimonium and four annexes. There are also two agreed minutes as well as the Final Protocol, mentioned above, which brought the QA into force. (A copy of all the QA texts can be found at the Tab.)

In addition to the QA and its annexes, there was an exchange of notes prior to the 1971 signing, transmitting to the Soviets a letter by the three Western Ambassadors to the Federal Chancellor containing clarifications and interpretations. Under the Vienna Convention on the Law of Treaties, for the purpose of interpreting the QA, this letter also forms part of the context.

A second letter by the Ambassadors to the Chancellor, concerning the relationship between Berlin and the FRG, was not formally transmitted to the Soviets, but the Soviet Ambassador knew about it in advance.

Differences in Interpretation

The complex structure of the QA was designed to accommodate the differences in interpretation on each side. The annexes consist of communications from the two sides to each other, and even in the main body of the agreement (part II) there are sections in which one side only declares (and the other side acknowledges, implicitly, by its signature). The annexes, agreed minutes, and letters form a descending hierarchy of clarifications and interpretations, again with each side speaking for itself.

The main difference in interpretation was whether the agreement applied to the whole city (the Western view) or only to the Western Sectors (the Soviet view) -- an issue that goes to the heart of each side's view of Berlin status. Careful drafting allowed each side to keep its interpretation. The agreement itself even specifies that it is "without prejudice" to each side's "legal positions" (preamble). There is, according to Part I, agreement "respective of the differences in legal views."

Four-Power Rights, Main Purpose, Practical Problems

The QA was not a summing up of Four-Power rights and responsibilities. Rather, it was the result of the exercise of those rights to address specific problems for an overall purpose.

~~SECRET~~

~~SECRET~~

- 3 -

The QA's aim was to reduce the tensions that had surrounded Berlin since the advent of the Cold War. In political terms it marked the end of the era of Berlin access crises and the beginning of the era of detente and Ostpolitik.

Paragraph 1 of Part I states that "the four governments will strive to promote the elimination of tension and prevention of complications in the relevant area [the document's code words for Berlin]."

Specifically, the QA addressed certain practical problems of access, diplomatic representation, and activities of the FRG in Berlin that had been the focus of East-West tension.

Some of these problems the QA resolved directly, in a manner consistent with four-power status.

In other respects, however, the QA provided a four-power framework for "detailed arrangements between the competent German authorities" (Part IIA and C) so that the FRG and the GDR could negotiate inner-German issues.

The agreement made possible the 1971 Inner-German Transit Agreement, covering access to Berlin by land and waterway. (It did not address the issues of air access that are the subject of current Allied/FRG discussions in connection with Berlin aviation.)

The QA also permitted the FRG to represent the Western Sectors diplomatically in all matters except security and status. It provided directly for Soviet consular representation in West Berlin.

Over the past twenty years the QA has proved amazingly successful in achieving its overall purpose of reducing tensions. Its application has not been without problems, however. The Soviets have regularly tried to pass on certain of their responsibilities to the GDR, consistent with the Eastern view that East Berlin is the capital of the GDR. The Soviets have also refused to honor the full intent of the provisions providing for FRG representation of Berlin's interests abroad.

Most notably, the Soviets have protested even appearances in Berlin by FRG government figures, as well as more substantive FRG/Allied actions, as attempts to incorporate Berlin into the FRG. Despite evocation of principle, the

~~SECRET~~

Soviet approach has mainly been pragmatic, with an eye -- like the West -- not to allow Berlin to become a thorn in East-West relations.

No Unilateral Changes in Berlin's Status

The QA did not alter the legal status of the city or settle the "Berlin Question" -- the differences in interpretation alluded to above. The preamble explicitly states that the QA does not affect Quadripartite rights and responsibilities or wartime and post-war agreements and decisions of the Four Powers.

However, while addressing specific practical problems and not altering the city's legal status, the QA also did not freeze the situation in Berlin in perpetuity.

A fundamental provision of the QA was the agreement of the four governments not to change "the situation which has developed in [Berlin]" unilaterally. (See Part I, "General Provisions," paragraph 4.)

The purpose of this provision was to reduce the tension that had surrounded the city by securing the agreement of both sides not to act without the consent of the other. At the same time, however, this paragraph provided a means for change -- by agreement of all four parties. Despite periodic attempts by the GDR/USSR to make unilateral changes (e.g. in access), this provision remains a foundation for Four-Power cooperation.

Berlin and the Inner-German Relationship

The primary area for change envisaged in the QA lay in the area of Berlin's relations with the FRG. In the QA, the Four Powers reached agreement on a formula that defined how these relations could develop.

In Part II, Section B, the Western Allies declared that "the ties" between Berlin and the FRG "will be maintained and developed, taking into account that these Sectors continue not to be a constituent part of the Federal Republic of Germany and not to be governed by it." By signing the agreement, the Soviet Union in effect acknowledged the legitimacy of the development of ties, although the Soviets construe very narrowly what this means.

As already noted, the Soviets agreed to arrangements for the FRG to represent West Berlin abroad. The FRG could provide consular services, extend international agreements to Berlin, and represent the city in international organizations. Where the Soviets thought they could stretch their case (e.g. with regard to Berliners using FRG passports abroad), the Soviets have waffled on their agreement.

The Western powers also agreed that Bonn would not perform "consitutional or official acts" in Berlin -- meaning exercise direct state authority over the city. Also, the Western Allies reached agreement with Bonn, reflected in the first letter to the Chancellor, that the FRG would not hold meetings of the Bundestag, Bundesrat or Bundesversammlung in Berlin. This provision is the key to many Soviet objections to Allied/FRG actions tightening links between West Berlin and the FRG.

But the Soviets have also approached this issue realistically. The Soviets implicitly agreed to tolerate single parliamentary committee meetings in Berlin, in the sense of "maintaining and developing" ties between the city and the FRG.

Thus the agreement represented a balance between the FRG's right to develop ties to Berlin and the limitations imposed by the Four Powers (mainly the Soviets) on the development. Indeed, the Western declaration in Part IIB continued: Ties will be maintained and developed "...taking into account that [the Western Sectors of Berlin] continue not to be a constituent part of the Federal Republic of Germany and not to be governed by it."

What the Western Allies meant by this caveat was made more explicit in Annex II, in which the Allies stated that "the provisions of the Basic Law of the Federal Republic of Germany and of the Constitution operative in the Western Sectors of Berlin which contradict the above have been suspended and continue not to be in effect."

Furthermore, in the second letter to the Chancellor, the letter not formally communicated to the Soviets, the Western Ambassadors specified these provisions as

- the 1949 letters from the Western Military Governors in which the Allies expressed their reservations to Berlin's participation in the FRG, including specifically, for instance, denying its delegates full voting rights in the Bundestag,

~~SECRET~~

- 6 -

- the 1954 letter of the Allied High Commissioners, reserving Allied rights at the time of the Relations Convention (which recognized the FRG's sovereignty), and
- the 1967 Allied aide-memoire stating that the Federal German Constitutional Court does not have jurisdiction in relation to Berlin.

Taken together with the restrictions on the activities of the Federal German government in Berlin mentioned above, these limitations on Berlin's participation in the Federal German government represented the boundaries which are now being seriously challenged by the process of unification.

Unification and the Special Status of Berlin

The QA is consistent with the special status that was accorded Berlin by the wartime allies when they set the city aside as a special area to be governed jointly.

Although the Soviets withdrew from the Allied Kommandatura (the joint Allied government) in 1948, they have consistently maintained that they continue to have special rights in West Berlin. The Western Allies have not recognized the Soviet-GDR claim to have incorporated East Berlin into the GDR and regularly act (e.g. via flag tours) on our own view that we continue to have special rights in East Berlin -- which the Soviets on the whole do not challenge.

Although both Berlin and the FRG went on record in 1949 in favor of the (whole) city's becoming a Land of the FRG under the Federal Republic's Basic Law, both have tolerated the city's special status for two reasons. First, Berlin's status demonstrated that the German Question was not resolved. Second, it provided a firm legal basis -- to which the Soviet Union was also a party -- for the Allied presence in the city.

The QA itself is not an obstacle to ending that status any more than it is an obstacle to the relinquishment of four-power rights in general. However, it does represent a contractual agreement on the part of the Four Powers not to change the situation of the city unilaterally. Presumably, if one side were to do so, the other side could legitimately go back on its other undertakings -- such as the Soviet's undertaking to facilitate transit traffic and communication.

~~SECRET~~

~~SECRET~~

- 7 -

The point is only that the situation will remain more stable, and less prone to crisis, if the Four Powers act in concert than if they act separately. The FRG is not a direct party to the agreement any more than the GDR is. Obviously, however, Germans from both states have a key role to play in any transition.

Termination

The QA itself contains no provision for its termination. There is a provision in the Final Protocol for Quadripartite consultation in the event of a difficulty in application or in the event of non-implementation in order to bring the situation into conformity with the QA and the Final Protocol.

Notably, however, when the Soviets were discussing participation in the Berlin Initiative last year (and insisting on a QA pretext), they specifically made clear that they were not invoking this consultation mechanism.

In negotiating the QA, the Four Powers stated they were "acting on the basis of their quadripartite rights and responsibilities, and [on the basis] of the corresponding wartime and post-war agreements and decision of the Four Powers...." These rights, responsibilities, agreements, and decisions were expressly not affected by the QA.

A renunciation of Four-Power rights and responsibilities would remove the basis for the QA. However, in view of the importance of the QA, the Four Powers may want to terminate it explicitly as part of the overall process of renouncing their rights and responsibilities.

Attachment:

Text of QA and Final Protocol

Drafted: EUR/CE:CB Skinner *MS*
3/22/90 647-2005 EW2135

Cleared: EUR:BMcKinley
EUR/CE:PShostal
EUR/CE:JM Seymour
EUR/CE:AAGoodman
L/EUR:DJKoblitz *MS for*

~~SECRET~~

.

*Quadripartite Agreement on Berlin, Signed at Berlin, September 3,
1971*¹

The Governments of the United States of America, the French Republic, the Union of Soviet Socialist Republics and the United Kingdom of Great Britain and Northern Ireland,

¹ Department of State *Bulletin*, September 27, 1971, pp. 318-322. In addition to the documents printed here and below, representatives of the Four Powers also initialed on September 3 a Draft Protocol on the Entry into Force of the Quadripartite Agreement on Berlin, which was the same as that formally signed on June 3, 1972. See *post*.

Represented by their Ambassadors, who held a series of meetings in the building formerly occupied by the Allied Control Council in the American Sector of Berlin,

Acting on the basis of their quadripartite rights and responsibilities, and of the corresponding wartime and postwar agreements and decisions of the Four Powers, which are not affected,

Taking into account the existing situation in the relevant area, Guided by the desire to contribute to practical improvements of the situation,

Without prejudice to their legal positions,

Have agreed on the following:

PART I

GENERAL PROVISIONS

1. The four Governments will strive to promote the elimination of tension and the prevention of complications in the relevant area.

2. The four Governments, taking into account their obligations under the Charter of the United Nations, agree that there shall be no use or threat of force in the area and that disputes shall be settled solely by peaceful means.

3. The four Governments will mutually respect their individual and joint rights and responsibilities, which remain unchanged.

4. The four Governments agree that, irrespective of the differences in legal views, the situation which has developed in the area, and as it is defined in this Agreement as well as in the other agreements referred to in this Agreement, shall not be changed unilaterally.

PART II

PROVISIONS RELATING TO THE WESTERN SECTORS OF BERLIN

A. The Government of the Union of Soviet Socialist Republics declares that transit traffic by road, rail and waterways through the territory of the German Democratic Republic of civilian persons and goods between the Western Sectors of Berlin and the Federal Republic of Germany will be unimpeded; that such traffic will be facilitated so as to take place in the most simple and expeditious manner; and that it will receive preferential treatment.

Detailed arrangements concerning this civilian traffic, as set forth in Annex I, will be agreed by the competent German authorities.

B. The Governments of the French Republic, the United Kingdom and the United States of America declare that the ties between the Western Sectors of Berlin and the Federal Republic of Germany will be maintained and developed, taking into account that these Sectors continue not to be a constituent part of the Federal Republic of Germany and not to be governed by it.

Detailed arrangements concerning the relationship between the Western Sectors of Berlin and the Federal Republic of Germany are set forth in Annex II.

C. The Government of the Union of Soviet Socialist Republics declares that communications between the Western Sectors of Berlin

and areas bordering on these Sectors and those areas of the German Democratic Republic which do not border on these Sectors will be improved. Permanent residents of the Western Sectors of Berlin will be able to travel to and visit such areas for compassionate, family, religious, cultural or commercial reasons, or as tourists, under conditions comparable to those applying to other persons entering these areas.

The problems of the small enclaves, including Steinstuecken, and of other small areas may be solved by exchange of territory.

Detailed arrangements concerning travel, communications and the exchange of territory, as set forth in Annex III, will be agreed by the competent German authorities.

D. Representation abroad of the interests of the Western Sectors of Berlin and consular activities of the Union of Soviet Socialist Republics in the Western Sectors of Berlin can be exercised as set forth in Annex IV.

PART III

FINAL PROVISIONS

This Quadripartite Agreement will enter into force on the date specified in a Final Quadripartite Protocol to be concluded when the measures envisaged in Part II of this Quadripartite Agreement and in its Annexes have been agreed.

DONE at the building formerly occupied by the Allied Control Council in the American Sector of Berlin this 3rd day of September 1971, in four originals, each in the English, French and Russian languages, all texts being equally authentic.

For the Government of the United States of America:
KENNETH RUSH.

For the Government of the French Republic:
JEAN SAUVAGNARGUES.

For the Government of the Union of Soviet Socialist Republics:
PYOTE A. ABRASIMOV.

For the Government of the United Kingdom of Great Britain and Northern Ireland:
ROGER JACKLING.

Annex I

COMMUNICATION FROM THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS TO THE GOVERNMENTS OF THE FRENCH REPUBLIC, THE UNITED KINGDOM AND THE UNITED STATES OF AMERICA

The Government of the Union of Soviet Socialist Republics, with reference to Part II(A) of the Quadripartite Agreement of this date

and after consultation and agreement with the Government of the German Democratic Republic, has the honor to inform the Governments of the French Republic, the United Kingdom and the United States of America that:

1. Transit traffic by road, rail and waterways through the territory of the German Democratic Republic of civilian persons and goods between the Western Sectors of Berlin and the Federal Republic of Germany will be facilitated and unimpeded. It will receive the most simple, expeditious and preferential treatment provided by international practice.

2. Accordingly,

(a) Conveyances sealed before departure may be used for the transport of civilian goods by road, rail and waterways between the Western Sectors of Berlin and the Federal Republic of Germany. Inspection procedures will be limited to the inspection of seals and accompanying documents.

(b) With regard to conveyances which cannot be sealed, such as open trucks, inspection procedures will be limited to the inspection of accompanying documents. In special cases where there is sufficient reason to suspect that unsealed conveyances contain either material intended for dissemination along the designated routes or persons or material put on board along these routes, the content of unsealed conveyances may be inspected. Procedures for dealing with such cases will be agreed by the competent German authorities.

(c) Through trains and buses may be used for travel between the Western Sectors of Berlin and the Federal Republic of Germany. Inspection procedures will not include any formalities other than identification of persons.

(d) Persons identified as through travellers using individual vehicles between the Western Sectors of Berlin and the Federal Republic of Germany on routes designated for through traffic will be able to proceed to their destinations without paying individual tolls and fees for the use of the transit routes. Procedures applied for such travellers shall not involve delay. The travellers, their vehicles and personal baggage will not be subject to search, detention or exclusion from use of the designated routes, except in special cases, as may be agreed by the competent German authorities, where there is sufficient reason to suspect that misuse of the transit routes is intended for purposes not related to direct travel to and from the Western Sectors of Berlin and contrary to generally applicable regulations concerning public order.

(e) Appropriate compensation for fees and tolls and for other costs related to traffic on the communication routes between the Western Sectors of Berlin and the Federal Republic of Germany, including the maintenance of adequate routes, facilities and installations used for such traffic, may be made in the form of an annual lump sum paid to the German Democratic Republic by the Federal Republic of Germany.

3. Arrangements implementing and supplementing the provisions of paragraphs 1 and 2 above will be agreed by the competent German authorities.

Annex II

COMMUNICATION FROM THE GOVERNMENTS OF THE FRENCH REPUBLIC, THE UNITED KINGDOM AND THE UNITED STATES OF AMERICA TO THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS

The Governments of the French Republic, the United Kingdom and the United States of America, with reference to Part II(B) of the Quadripartite Agreement of this date and after consultation with the Government of the Federal Republic of Germany, have the honor to inform the Government of the Union of Soviet Socialist Republics that:

1. They declare, in the exercise of their rights and responsibilities, that the ties between the Western Sectors of Berlin and the Federal Republic of Germany will be maintained and developed, taking into account that these Sectors continue not to be a constituent part of the Federal Republic of Germany and not to be governed by it. The provisions of the Basic Law of the Federal Republic of Germany and of the Constitution operative in the Western Sectors of Berlin which contradict the above have been suspended and continue not to be in effect.

2. The Federal President, the Federal Government, the Bundesversammlung, the Bundesrat and the Bundestag, including their Committees and Fraktionen, as well as other state bodies of the Federal Republic of Germany will not perform in the Western Sectors of Berlin constitutional or official acts which contradict the provisions of paragraph 1.

3. The Government of the Federal Republic of Germany will be represented in the Western Sectors of Berlin to the authorities of the three Governments and to the Senat by a permanent liaison agency.

Annex III

COMMUNICATION FROM THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS TO THE GOVERNMENTS OF THE FRENCH REPUBLIC, THE UNITED KINGDOM AND THE UNITED STATES OF AMERICA

The Government of the Union of Soviet Socialist Republics, with reference to Part II(C) of the Quadripartite Agreement of this date and after consultation and agreement with the Government of the German Democratic Republic, has the honor to inform the Govern-

ments of the French Republic, the United Kingdom and the United States of America that:

1. Communications between the Western Sectors of Berlin and areas bordering on these Sectors and those areas of the German Democratic Republic which do not border on these Sectors will be improved.

2. Permanent residents of the Western Sectors of Berlin will be able to travel to and visit such areas for compassionate, family, religious, cultural or commercial reasons, or as tourists, under conditions comparable to those applying to other persons entering these areas. In order to facilitate visits and travel, as described above, by permanent residents of the Western Sectors of Berlin, additional crossing points will be opened.

3. The problems of the small enclaves, including Steinstuecken, and of other small areas may be solved by exchange of territory.

4. Telephonic, telegraphic, transport and other external communications of the Western Sectors of Berlin will be expanded.

5. Arrangements implementing and supplementing the provisions of paragraphs 1 to 4 above will be agreed by the competent German authorities.

Annex IV

A. COMMUNICATION FROM THE GOVERNMENTS OF THE FRENCH REPUBLIC, THE UNITED KINGDOM AND THE UNITED STATES OF AMERICA TO THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS

The Governments of the French Republic, the United Kingdom and the United States of America, with reference to Part II (D) of the Quadripartite Agreement of this date and after consultation with the Government of the Federal Republic of Germany, have the honor to inform the Government of the Union of Soviet Socialist Republics that:

1. The Governments of the French Republic, the United Kingdom and the United States of America maintain their rights and responsibilities relating to the representation abroad of the interests of the Western Sectors of Berlin and their permanent residents, including those rights and responsibilities concerning matters of security and status, both in international organizations and in relations with other countries.

2. Without prejudice to the above and provided that matters of security and status are not affected, they have agreed that:

- (a) The Federal Republic of Germany may perform consular services for permanent residents of the Western Sectors of Berlin.

- (b) In accordance with established procedures, international agreements and arrangements entered into by the Federal Republic of Germany may be extended to the Western Sectors of

Berlin provided that the extension of such agreements and arrangements is specified in each case.

(c) The Federal Republic of Germany may represent the interests of the Western Sectors of Berlin in international organizations and international conferences.

(d) Permanent residents of the Western Sectors of Berlin may participate jointly with participants from the Federal Republic of Germany in international exchanges and exhibitions. Meetings of international organizations and international conferences as well as exhibitions with international participation may be held in the Western Sectors of Berlin. Invitations will be issued by the Senat or jointly by the Federal Republic of Germany and the Senat.

3. The three Governments authorize the establishment of a Consulate General of the USSR in the Western Sectors of Berlin accredited to the appropriate authorities of the three Governments in accordance with the usual procedures applied in those Sectors, for the purpose of performing consular services, subject to provisions set forth in a separate document of this date.

B. COMMUNICATION FROM THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS TO THE GOVERNMENTS OF THE FRENCH REPUBLIC, THE UNITED KINGDOM AND THE UNITED STATES OF AMERICA

The Government of the Union of Soviet Socialist Republics, with reference to Part II(D) of the Quadripartite Agreement of this date and to the communication of the Governments of the French Republic, the United Kingdom and the United States of America with regard to the representation abroad of the interests of the Western Sectors of Berlin and their permanent residents, has the honor to inform the Governments of the French Republic, the United Kingdom and the United States of America that:

1. The Government of the Union of Soviet Socialist Republics takes note of the fact that the three Governments maintain their rights and responsibilities relating to the representation abroad of the interests of the Western Sectors of Berlin and their permanent residents, including those rights and responsibilities concerning matters of security and status, both in international organizations and in relations with other countries.

2. Provided that matters of security and status are not affected, for its part it will raise no objection to:

(a) the performance by the Federal Republic of Germany of consular services for permanent residents of the Western Sectors of Berlin;

(b) in accordance with established procedures, the extension to the Western Sectors of Berlin of international agreements and arrangements entered into by the Federal Republic of Germany provided that the extension of such agreements and arrangements is specified in each case;

(c) the representation of the interests of the Western Sectors of Berlin by the Federal Republic of Germany in international organizations and international conferences;

(d) the participation jointly with participants from the Federal Republic of Germany of permanent residents of the Western Sectors of Berlin in international exchanges and exhibitions, or the holding in those Sectors of meetings of international organizations and international conferences as well as exhibitions with international participation, taking into account that invitations will be issued by the Senat or jointly by the Federal Republic of Germany and the Senat.

3. The Government of the Union of Soviet Socialist Republics takes note of the fact that the three Governments have given their consent to the establishment of a Consulate General of the USSR in the Western Sectors of Berlin. It will be accredited to the appropriate authorities of the three Governments, for purposes and subject to provisions described in their communication and as set forth in a separate document of this date.

*Agreed Minute I*²

It is understood that permanent residents of the Western Sectors of Berlin shall, in order to receive at appropriate Soviet offices visas for entry into the Union of Soviet Socialist Republics, present:

(a) a passport stamped "Issued in accordance with the Quadripartite Agreement of September 3, 1971";

(b) an identity card or other appropriately drawn up document confirming that the person requesting the visa is a permanent resident of the Western Sectors of Berlin and containing the bearer's full address and a personal photograph.

During his stay in the Union of Soviet Socialist Republics, a permanent resident of the Western Sectors of Berlin who has received a visa in this way may carry both documents or either of them, as he chooses. The visa issued by a Soviet office will serve as the basis for entry into the Union of Soviet Socialist Republics, and the passport or identity card will serve as the basis for consular services in accordance with the Quadripartite Agreement during the stay of that person in the territory of the Union of Soviet Socialist Republics.

The above-mentioned stamp will appear in all passports used by permanent residents of the Western Sectors of Berlin for journeys to such countries as may require it.

*Agreed Minute II*³

Provision is hereby made for the establishment of a Consulate General of the USSR in the Western Sectors of Berlin. It is understood that the details concerning this Consulate General will include the following. The Consulate General will be accredited to the appropriate authorities of the three Governments in accord-

² Initialed by the four Ambassadors on September 3. [Footnote in the source text.]

³ Initialed by the four Ambassadors on September 3. [Footnote in the source text.]

ance with the usual procedures applying in those Sectors. Applicable Allied and German legislation and regulations will apply to the Consulate General. The activities of the Consulate General will be of a consular character and will not include political functions or any matters related to quadripartite rights or responsibilities.

The three Governments are willing to authorize an increase in Soviet commercial activities in the Western Sectors of Berlin as described below. It is understood that pertinent Allied and German legislation and regulations will apply to these activities. This authorization will be extended indefinitely, subject to compliance with the provisions outlined herein. Adequate provision for consultation will be made. This increase will include establishment of an "Office of Soviet Foreign Trade Associations in the Western Sectors of Berlin", with commercial status, authorized to buy and sell on behalf of foreign trade associations of the Union of Soviet Socialist Republics. Soyuzpushnina, Prodintorg and Novoexport may each establish a bonded warehouse in the Western Sectors of Berlin to provide storage and display for their goods. The activities of the Intourist office in the British Sector of Berlin may be expanded to include the sale of tickets and vouchers for travel and tours in the Union of Soviet Socialist Republics and other countries. An office of Aeroflot may be established for the sale of passenger tickets and air freight services.

The assignment of personnel to the Consulate General and to permitted Soviet commercial organizations will be subject to agreement with the appropriate authorities of the three Governments. The number of such personnel will not exceed twenty Soviet nationals in the Consulate General; twenty in the office of the Soviet Foreign Trade Associations; one each in the bonded warehouses; six in the Intourist office; and five in the Aeroflot office. The personnel of the Consulate General and of permitted Soviet commercial organizations and their dependents may reside in the Western Sectors of Berlin upon individual authorization.

The property of the Union of Soviet Socialist Republics at Lietzenburgerstrasse 11 and at Am Sandwerder 1 may be used for purposes to be agreed between appropriate representatives of the three Governments and of the Government of the Union of Soviet Socialist Republics.

Details of implementation of the measures above and a time schedule for carrying them out will be agreed between the four Ambassadors in the period between the signature of the Quadripartite Agreement and the signature of the Final Quadripartite Protocol envisaged in that Agreement.

*Note From the Ambassadors of France, the United Kingdom, and the United States to the Ambassador of the Soviet Union Conveying Clarifications of Annex II, September 3, 1971*¹

The Ambassadors of the French Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America have the honor, with reference to the statements contained in Annex II of the Quadripartite Agreement to be signed on this date concerning the relationship between the Federal Republic of Germany and the Western Sectors of Berlin, to inform the Ambassador of the Union of Soviet Socialist Republics of their intention to send to the Chancellor of the Federal Republic of Germany immediately following signature of the Quadripartite Agreement a letter containing clarifications and interpretations which represent the understanding of their Governments of the statements contained in Annex II of the Quadripartite Agreement. A copy of the letter to be sent to the Chancellor of the Federal Republic of Germany is attached to this Note.²

The Ambassadors avail themselves of this opportunity to renew to the Ambassador of the Union of Soviet Socialist Republics the assurances of their highest consideration.

JEAN SAUVAGNARGUES.

ROGER JACKLING.

KENNETH RUSH.

¹ Department of State *Bulletin*, September 27, 1971, pp. 322-323. The note was handed to the Soviet Ambassador prior to the signing of the Quadripartite Agreement.

² *Infra*.

*Letter From the Ambassadors of France, the United Kingdom, and the United States to the Chancellor of the Federal Republic of Germany, Regarding Relations Between the Federal Republic and the Western Sectors of Berlin, September 3, 1971*¹

YOUR EXCELLENCY: With reference to the Quadripartite Agreement signed on September 3, 1971, our Governments wish by this letter to inform the Government of the Federal Republic of Germany of the following clarifications and interpretations of the statements contained in Annex II, which was the subject of consultation with the Government of the Federal Republic of Germany during the quadripartite negotiations.

These clarifications and interpretations represent the understanding of our Governments of this part of the Quadripartite Agreement, as follows:

¹ Department of State *Bulletin*, September 27, 1971, p. 323. The letter was delivered to the Chancellor of the Federal Republic of Germany on September 3.

a. The phrase in Paragraph 2 of Annex II of the Quadripartite Agreement which reads: "... will not perform in the Western Sectors of Berlin constitutional or official acts which contradict the provisions of Paragraph 1" shall be interpreted to mean acts in exercise of direct state authority over the Western Sectors of Berlin.

b. Meetings of the Bundesversammlung will not take place and plenary sessions of the Bundesrat and the Bundestag will continue not to take place in the Western Sectors of Berlin. Single committees of the Bundesrat and the Bundestag may meet in the Western Sectors of Berlin in connection with maintaining and developing the ties between those Sectors and the Federal Republic of Germany. In the case of Fraktionen, meetings will not be held simultaneously.

c. The liaison agency of the Federal Government in the Western Sectors of Berlin includes departments charged with liaison functions in their respective fields.

d. Established procedures concerning the applicability to the Western Sectors of Berlin of legislation of the Federal Republic of Germany shall remain unchanged.

e. The term "state bodies" in Paragraph 2 of Annex II shall be interpreted to mean: the Federal President, the Federal Chancellor, the Federal Cabinet, the Federal Ministers and Ministries, and the branch offices of those Ministries, the Bundesrat and the Bundestag, and all Federal courts.

Accept, Excellency, the renewed assurance of our highest esteem.

For the Government of the French Republic:

[JEAN SAUVAGNARGUES]

For the Government of the United Kingdom of Great Britain and Northern Ireland:

[ROGER JACKLING]

For the Government of the United States of America:

[KENNETH RUSH]

*Note From the Ambassador of the Soviet Union to the Ambassadors of France, the United Kingdom, and the United States, September 3, 1971*¹

[Translation]

The Ambassador of the Union of the Soviet Socialist Republics has the honor to acknowledge receipt of the note of the Ambassadors of the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, dated

¹ Department of State *Bulletin*, September 27, 1951, p. 323. Handed by the Ambassador of the Soviet Union to the three Ambassadors prior to the signing of the Quadripartite Agreement.

September 3, 1971, and takes cognizance of the communication of the three Ambassadors.

The Ambassador avails himself of this opportunity to renew to the Ambassadors of the French Republic, the United Kingdom, and the United States of America the assurance of his very high consideration.

PYOTR A. ABRASIMOV.

*Letter From the Ambassadors of France, the United Kingdom, and the United States to the Chancellor of the Federal Republic of Germany, Regarding the Rights and Responsibilities of the Three Powers in the Western Sectors of Berlin, September 3, 1971*¹

His Excellency

THE CHANCELLOR OF THE FEDERAL REPUBLIC OF GERMANY,
Bonn.

YOUR EXCELLENCY: We have the honor by means of this letter to convey to the Government of the Federal Republic of Germany the text of the Quadripartite Agreement signed this day in Berlin. The Quadripartite Agreement was concluded by the Four Powers in the exercise of their rights and responsibilities with respect to Berlin.

We note that, pursuant to the terms of the Agreement and of the Final Quadripartite Protocol which ultimately will bring it into force, the text of which has been agreed, these rights and responsibilities are not affected and remain unchanged. Our Governments will continue, as heretofore, to exercise supreme authority in the Western Sectors of Berlin, within the framework of the Four Power responsibility which we share for Berlin as a whole.

In accordance with Part II(A) of the Quadripartite Agreement, arrangements implementing and supplementing the provisions relating to civilian traffic will be agreed by the competent German authorities. Part III of the Quadripartite Agreement provides that the Agreement will enter into force on a date to be specified in a Final Quadripartite Protocol which will be concluded when the arrangements envisaged between the competent German authorities have been agreed. It is the request of our Governments that the envisaged negotiations now take place between authorities of the Federal Republic of Germany, also acting on behalf of the Senat, and authorities of the German Democratic Republic.

Part II(B) and (D) and Annexes II and IV of the Quadripartite Agreement relate to the relationship between the Western Sectors of Berlin and the Federal Republic. In this connection, the following are recalled inter alia:

the communications of the three Western Military Governors to the Parliamentary Council of 2 March, 22 April and 12 May, 1949,²

¹ Department of State *Bulletin*, September 27, 1951, pp. 323-324.

² *Ante*.

the letter of the three High Commissioners to the Federal Chancellor concerning the exercise of the reserved Allied rights relating to Berlin of 26 May 1952 in the version of the letter X of 23 October 1954,

the Aide-Mémoire of the three Governments of 18 April 1967 concerning the decision of the Federal Constitutional Court of 20 January 1966 in the Niekisch case.³

Our Governments take this occasion to state, in exercise of the rights and responsibilities relating to Berlin, which they retained in Article 2 of the Convention on Relations between the Three Powers and the Federal Republic of Germany on 26 May 1952 as amended October 23, 1954, that Part II(B) and (D) and Annexes II and IV of the Quadripartite Agreement concerning the relationship between the Federal Republic of Germany and the Western Sectors of Berlin accord with the position in the above mentioned documents, which remains unchanged.

With regard to the existing ties between the Federal Republic and the Western Sectors of Berlin, it is the firm intention of our Governments that, as stated in Part II(B) (1) of the Quadripartite Agreement, these ties will be maintained and developed in accordance with the letter from the three High Commissioners to the Federal Chancellor on the exercise of the reserved rights relating to Berlin of 26 May 1952, in the version of letter X of October 23, 1954,⁴ and with pertinent decisions of the Allied Kommandatura of Berlin.

Accept, Excellency, the renewed assurance of our highest esteem.

For the Government of the French Republic:

JEAN SAUVAGNARGUES.

For the Government of the United Kingdom of Great Britain and Northern Ireland:

ROGER JACKLING.

For the Government of the United States of America:

KENNETH RUSH.

³ *Ante.*

⁴ *Ante.*



United States Department of State

Washington, D. C. 20520

9007725

INFORMATION MEMORANDUM *GP 4/5*

~~CONFIDENTIAL~~

S/S

APR 5 1990

TO: C - Robert Zoellick
FROM: EUR - R. G. H. Seitz *JS*
SUBJECT: Status of Szczecin (Stettin)

An FRG official has said privately that the Poles asked FRG President von Weizsaecker to provide assurances the Polish city of Szczecin (located on the West bank of the Oder River) definitely belongs to Poland. Our Embassy in Warsaw will be checking with the Poles on whether they have any particular sensitivities about Szczecin, but is highly skeptical that the Poles would want specific assurances on the status of Szczecin in addition to a legal affirmation of the overall Oder-Neisse line as the permanent border. Poland would have no interest in raising Szczecin as an issue, nor would anyone else.

The Szczecin issue arises from a dispute at the Potsdam conference, at which the U.S. initially resisted inclusion of Szczecin as part of Polish territory. The issue ultimately was resolved with the transfer of Szczecin to Polish administration. Although the wording of the Potsdam Protocol is imprecise on this point, the negotiating history and the post-conference conduct of the parties reflects an intent to include Szczecin as Polish territory. Throughout the postwar era, Szczecin's inclusion in Poland has not been questioned by the FRG, GDR or any of the Four Powers.

Attached is a paper from L which provides historical and legal background. The paper concludes that since 1945 it has been uncontroverted that Szczecin is regarded in political, legal and cartographic terms as included within the territory transferred to Poland at Potsdam. We agree with L that this issue should not pose significant legal or political difficulties should it arise in connection with a final settlement on Germany. The issue would be definitively resolved through a general affirmation of existing borders which clearly show Szczecin as part of Poland. However, since Szczecin's territorial status is not crystal clear from

~~CONFIDENTIAL~~
DECL: OADR

DECLASSIFIED
PER E.O. 12958,
AS AMENDED
2008-0658 - MR
03/10/2010 MM

~~CONFIDENTIAL~~

-2-

the text of the Potsdam agreement, repeating the Potsdam border language (rather than affirming existing borders) in a final settlement could conceivably perpetuate some legal uncertainty.

The U.S. interest is to ensure that Szczecin does not become an issue. In particular, in any "Two-plus-Four" discussions on Polish borders, we would want to discourage a unique focus on Szczecin. Moreover, public emphasis on Szczecin could arouse irredentist sentiment in Germany and create political difficulties for the Kohl government.

An additional source of concern is that any discussion of specific border issues could poison the atmosphere at the "Two-plus-Four" talks by sending a signal to the FRG that broad German guarantees will not be sufficiently trusted. At the same time, we have an interest in ensuring that Polish concerns are addressed in the final settlement in a manner which does not leave this issue open for future exploitation.

Our policy should be to discourage both parties from making this an issue. We should emphasize that existing borders are permanent (unless adjusted pursuant to international law) rather than single out Szczecin for special discussion.

Should the Poles or Germans pursue the issue, we should advise them that we believe there is no question of the status of Szczecin. President Bush has made clear that the U.S. recognizes the current German-Polish border. The Helsinki Final Act and Chancellor Kohl's recent statements politically confirm the current western border of Poland. Bilateral German-Polish agreements, "Two-plus-Four" consideration of the issue, and appropriate language in the final settlement should remove all doubts about Poland's western borders, including the status of Szczecin. Ultimately, these measures should satisfy legitimate Polish needs for securing the inviolability of their western border.

Attachment: L Memorandum on Historical and Legal Background

Drafted by: EUR/CE:PKIt¹o/AAGoodman

Clearances: EUR:JFDobbins

EUR/CE:JMSeymour

L/EUR:MPeay

EUR/EEY:CHill

S/P:BHeep

P:AWolff (info)

SECEEW 2190

4/4/90

INFO MEMO TO C ON STATUS OF SZCZECIN

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

The Status of Szczecin [Stettin] (Poland)

Summary

The legal status of Szczecin [Stettin], like other parts of the Polish western frontier, is provisional; final delimitation of the German-Polish border is to "await the peace settlement", pursuant to the terms of the 1945 Potsdam Protocol. Its exact status, however, was not specifically referred to in the Protocol; nevertheless, since 1945 it has been uncontroverted that the city is regarded in political, legal and cartographic terms as included within the territory transferred to Poland at Potsdam. The two Germanys have acknowledged this provisional status quo through separate agreements with Poland that address the Polish border issue. Official U.S. and German maps reflect this situation and are further evidence that Stettin has essentially been a non-issue since 1945.

At the same time, the Department's Office of the Geographer advises that there may exist a technical legal/cartographic argument that Szczecin [Stettin] was not unambiguously transferred to Polish territory in the final wording of the Potsdam agreement. Hence, the legal status of Stettin [Stettin] would not be entirely free from doubt if a final peace settlement simply reiterated the Potsdam formula without more, even though the map- and political assumptions since 1945 have indicated otherwise. Accordingly, in the context of a "settlement" on Germany, policymakers may wish to resolve definitively the Szczecin [Stettin] issue in some legally effective way. This could be done explicitly or via a general affirmation of the existing border. To help avoid reopening this issue, we should use the Polish spelling [Szczecin] over the German spelling [Stettin] when officially refering to this territory.

Discussion

The question as to the legal status of Szczecin is inextricably linked with the Oder-Neisser issue and the treatment of that issue at the Yalta and Potsdam Conferences of 1945, which provisionally placed certain former German territories east of the Oder-Neisse Line under Soviet and Polish administration.

At the Yalta Conference in February 1945, the U.S., the USSR, and the U.K. determined that "Poland must receive substantial accessions of territory in the North and the West" and that "the final delimitation of the Western frontier of Poland should thereafter await the Peace Conference." (Protocol of Proceedings at Yalta, 3 Bevans 1013).

The U.S. record of the Yalta proceedings suggests that the initial U.S. position regarding the western frontier of Poland would have kept Szczecin as a part of Germany. In a memorandum prepared by the U.S. delegation during the Yalta conference summarizing for President Roosevelt the U.S. position, the following was said:

~~CONFIDENTIAL~~

DECLASSIFIED

PER E.O. 12958,

AS AMENDED

2008-06-58-MR

03/10/2010 MM

~~CONFIDENTIAL~~

- 2 -

In regard to German territory to be turned over to Poland, we should make every effort to limit this compensation . . . to a minimum particularly because of the large population transfers which would have to be carried out if these purely German areas are included in Poland. We should resist vigorously efforts to extend the Polish frontier to the Oder Line or the Oder-Neisse Line. Whiteman's Digest of International Law, Vol.3, p. 296.

However, by the conclusion of the Potsdam conference, our position had changed and we were prepared to see the frontier set at the Oder-Neisse line.

Section VIII(B) of the Potsdam Protocol, 2 August 1945 (3 Bevans 1218), entitled "Western Frontier of Poland," provides in relevant part as follows:

The three Heads of Government reaffirm their opinion that the final delimitation of the western frontier of Poland should await the peace settlement.

The three Heads of Government agree that, pending the final determination of Poland's western frontier, the former German territories east of a line running from the Baltic Sea immediately west of Swinamunde, and thence along the Oder River to the confluence of the western Neisse River and along the Western Neisse to the Czechoslovak frontier, including that portion of East Prussia not placed under the administration of the Union of Soviet Socialist Republics in accordance with the understanding reached at this conference and including the area of the former free city of Danzig, shall be under the administration of the Polish State and for such purposes should not be considered as part of the Soviet zone of occupation in Germany.

[Emphasis added]

Szczecin is not expressly mentioned in the above text. Given the record of U.S. negotiating positions at Potsdam, this omission could be regarded as either puzzling or an inadvertent oversight, because the language of the text which the parties finally adopted had its origins in a U.S. delegation proposal dated July 29, 1945. That proposal, however, had included a specific reference to Stettin: ". . . through Swinemunde, to the west of Stettin to the Oder and thence along the Oder River . . ." (See, Whiteman's, Digest of International Law, Vol. 3 at 333-335). Had that language been ultimately adopted, there would be no question as to the inclusion of that city within current Polish borders. However, on the following day, July 30, 1945, the U.S. offered a new proposal "as a concession to meet the Soviet desire." (Whiteman's, Ibid.) That language was identical to the text finally adopted in the Potsdam Protocol.

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

- 3 -

Why the reference to Szczecin was dropped from the new U.S. proposal is not explained from any of the records available. An August 23, 1965 Department memorandum to the Secretary prepared by the Historian's Office on "Territorial Issues in Eastern Europe" contains the following discussion:

Although it had been understood among the Big Three at Potsdam that Szczecin [Stettin] would be included in the territory under Polish administration, the Potsdam Protocol had used the vague terminology "thence along the Oder River" and had made no specific reference to Szczecin.

The Big Three understanding referred to in the Historian's memorandum appears to be borne out in Winston Churchill's book "Triumph and Tragedy", where he wrote:

We agreed that the new Poland should advance its western frontier to what might be called the line of the Oder. The difference between Stalin and myself was how far this extension should reach. The words "line of the Oder" . . . was not an exact expression, but the British delegation had a line which could be considered in some detail by the Foreign Secretaries. I pointed out that I had only used the words "line of the Oder" as a general expression, and that it could not be properly explained without a map. (at p. 660)

The map published in Churchill's book explicitly depicts Szczecin as within the zone of Polish administration finally adopted at Potsdam. (See map at Tab B)

According to the Office of the Geographer (see memo at Tab A), if the frontier description found in Potsdam were literally applied in cartographic terms, Szczecin would fall outside the territory under Polish administration. Although subsequent actions involving third parties (including, inter alia, the GDR-Polish 1950 agreement demarcating their border and the 1975 Helsinki Accords) have effectively regarded Szczecin as an integral part of Poland, no legal instrument entered into by the Four Powers since Potsdam has specifically addressed, or unambiguously settled, the legal status of Szczecin.

Given the confused history of this issue, possibly compounded by incomplete historical records, it is conceivable that a legal question could arise as to the status of Szczecin. However this appears to be a marginal legal issue which, for all practical purposes, is essentially resolved, particularly since the issue has not been politically contentious as between the signatories to the Potsdam Protocol, nor as between either the FRG and the GDR, on the one hand, and Poland, on the other.

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

- 4 -

Article 1 of the 1950 GDR-Polish agreement on the demarcation of their border states that the parties "concur in confirming that the established and existing frontier, [then follows a description that corresponds to that found in the Potsdam Protocol] is the State frontier between Poland and Germany. (Documents on Germany, at p. 320). It is noteworthy that the frontier referred to is that between Poland and "Germany", not Poland and the GDR. (The map which is annexed to that agreement clearly denotes Szczecin as falling within Poland's state frontier). Article I(1) of the December 7, 1970 FRG-Polish Treaty Concerning the Basis for Normalizing Their Mutual Relations sets forth the agreement of the two parties that "the existing boundary line the course of which is laid down in Chapter IX of the decisions of the Potsdam Conference . . . shall constitute the western State frontier of the People's Republic of Poland."

Second, Poland's western frontiers were intended to be provisional and to "await the peace settlement" before final delimitation, pursuant to the Potsdam Protocol. The longstanding position of the United States on the provisional status of Poland's western frontier, as expressed through numerous authoritative statements, is cogently set forth in an excellent 1983 L memorandum prepared by Tim Ramish, entitled "U.S. Position on the Oder-Neisse Issue." Indicative of our position is the statement made in a March 25, 1952 U.S. note responding to a Soviet peace treaty proposal, in which the U.S. recalled that "no definitive German frontiers were laid down by the Potsdam decisions, which clearly provided that the final determination of territorial questions must await the peace settlement." (Documents on Germany, 1944-1985, at 365.)

Conclusion

In sum, in the context of a final settlement regarding Germany and its borders, the Szczecin issue does not appear to loom as a major or problematic issue. To the extent that policy makers believe that the issue needs further resolution and should be definitively put to rest, it could be addressed as part of the final settlement process. Simply incorporating the Potsdam text into a new legal document, however, may not remove all ambiguity. We could close the issue in any of several ways, such as by affirming the existing Polish western border in some explicit or oblique way, whether in a legal instrument, in a map reference or some other way, as long as the method chosen resolves the issue legally and definitively.

Tabs:

- A - Office of the Geographer Memo
- B - (Churchill) Map of Polish/German frontier

Drafted: L/EUR - T. Michael Peay, 4/4/90; #147
Cleared: INR/GE- Brad Thomas (subs)

LT: [signature]

United States Department of State

Washington, D.C. 20520

April 3, 1990

MEMORANDUM

TO: L/EUR - Michael Peay

FROM: INR/GE - Bradford Thomas *BT*

SUBJECT: Relationship of Szczecin/Stettin to the Oder-Neisse Line

In reference to your request for an opinion from the Office of The Geographer on whether the Oder-Neisse boundary between East Germany and Poland in the vicinity of the city of Szczecin/Stettin conforms to the Potsdam Agreement, I offer the observations below, based upon what materials are available in this office.

The Oder-Neisse boundary, as currently defined by the January 27, 1951 treaty between East Germany and Poland, does not follow the Oder River all the way to the Baltic Sea. Rather, it leaves the river at a town called Gryfino and runs overland to the lagoon Zalew Szczecinski/Oberhaff at Nova Warpno, putting Szczecin, which is on the west bank of the river, in Poland. From Zalew Szczecinski it joins the Baltic just west of Swinoujscie/Swinemünde (Tab A).

The Potsdam Agreement defines the former German territories under Polish administration as "east of a line running from the Baltic Sea immediately west of Swinamunde [sic], and thence along the Oder River to the confluence of the western Neisse River . . . [emphasis added]" A literal interpretation of this language would suggest that the line should enter the Oder River at its mouth in the Zalew Szczecinski and follow it upstream, which would place Szczecin in East Germany. Though imprecise in its wording, the agreement does not seem to support an overland boundary west of Szczecin.

The 1951 treaty between East Germany and Poland specifies the line leaving the river at Gryfina and running overland west of Szczecin, as shown in the map accompanying the treaty (Tab B).

Regardless of the alignment of this boundary, evidence suggests that there was some supplement to the Potsdam Agreement which allocated Szczecin to Poland. Judging from the depiction in an April 1947 State Department map, the line between Polish

administration and the Soviet Zone of Germany (later East Germany) up to February 1947 followed the river all the way to Zalew Szczecinski but made a small diversion west around Szczecin that incorporated it in Poland (Tab C)).

It may have been about 1947 or 1948 that the larger territory west of Szczecin was allocated to Poland. A German atlas map showing administrative boundaries of the area in the 1946-1948 time frame depicts the line later formalized in the 1951 treaty (Tab D).

IRON CURTAIN

ion, and were
les to press too
o the east.
h troubled us.
oland the elec-
d all the main
to participate
e definition of
y Communists
who was not a
two extremes
re neither one
e or the other.
hese moderate
iding everyone
the extremists.
ne with power
n, but the only
n political life.
afford to divide
ssible and join
n friends. For
ll those of the
ly collaborated
is. We should
ur Embassy, to
uring the poll.
tal forgiveness,
of the Western
had something

mistake if Great
e, now showed
odest and took
d asked for no
half Germans
(East Prussia).



~~CONFIDENTIAL~~

TWO-plus-FOUR TALKS: The Polish Border

Objectives

- o To get the question of Poland's western border with a united Germany resolved definitively in a manner satisfactory to both sides and with minimum potential for future friction.
- o To prevent the issue from blocking progress on other issues in the Two-plus-Four talks.

Assumptions/Constraints

- o Fixing the border is not the problem; the issue is agreeing on a form of legal and recognition by the Germans and then others, particularly the Four Powers.
- o Two-plus-Four is committed to "invite" Poland to participate when border question is discussed.
- o US should become neither a middle-man nor the odd-man-out.
- o If possible, initiative to resolve issue should come from FRG, if Bonn is to avoid appearing to act under pressure, hence with "mental reservation."
- o Delay will exacerbate problem in several ways:
 - Other Allies, particularly French and Soviets may exploit the issue to posture for their own ends or to increase their influence with Poland.
 - US Congress and public are sensitive to the issue; Congress could use it to insert itself into Two-plus-Four process.
 - Poles may press additional demands, e.g. repeating request to meet in Warsaw or demanding a say on security questions--troop deployment or Germany's status vis-a-vis NATO--on grounds they have direct interest.
 - Other European countries may become nervous about other border issues or may use Polish example problem to demand their own place in Two-plus-Four process.

~~CONFIDENTIAL~~

DECL:OADR

DECLASSIFIED
PER E.O. 12958,
AS AMENDED
2008-0658-MR
03/10/2010 MM

Proposed Strategy

The ideal would be for Bonn to take the lead with the Poles to develop a solution which the Allies can endorse. Given Kohl's political problems, he may have to move more slowly than we would like. In any case, we should encourage Bonn to take initiative to discuss with GDR and then together with Poles the form and scenario of a settlement.

This would presumably involve, as Kohl has proposed, declarations by the Volkskammer and Bundestag that would recognize the border and German commitment to negotiate a treaty with the Poles to take effect with unification. Negotiation of the treaty could take place in parallel with progress toward unity and the Two-plus-Four talks. The treaty itself could be endorsed or otherwise acknowledged and blessed by the Four Powers upon unification.

The ideal scenario would follow these steps:

- 1) Germans and Poles develop a concept.
- 2) Two-Plus-Four give their endorsement.
- 3) Germans and Poles negotiate the agreement.
- 4) Negotiations completed; Poles return to Two-plus-Four for their endorsement.

FRG officials have told us Bonn wants to avoid any appearance of the Four Powers sitting in judgment on the Germans, or directing the Germans and the Poles to work out their differences. The FRG therefore wants to avoid Polish participation until a common Polish/German approach has been agreed.

If we do not invite the Poles to the next Two-plus-Four officials meeting, however, they may make an effort to come to the first ministerial, which is likely to follow it. In order to forestall this, we might invite the Poles to the upcoming Two-plus-Four officials meeting. At this meeting the Two-plus-Four would hear them out, and then agree to come back to the issue once the Bundestag and the Volkskammer had passed their declarations, and ideally, after the Poles and the Germans had agreed on the forms and procedures for their border Treaty.

Alternatively, the next Two-plus-Four officials meeting might announce the intention to invite the Poles to its next session, which would come after the first ministerial.

Two-Plus-Four Endorsement

We will face another basic question: Whether the Two-plus-Four should merely endorse the eventual German-Polish treaty, for example, through an exchange of notes or by a joint statement, or whether they should be co-signatories of the treaty.

The Poles would probably rather see them as co-signatories, which would tend to bind them into the legal guarantee of the border. The Allies could discharge their legal obligation under the postwar agreements, however, merely by certifying their endorsement of the agreement recognizing the borders in connection with unification and declaring fulfillment of their responsibility for determining the final postwar boundaries. While we will likely prefer the simplest and least committal means of exercising our responsibility to establish the borders of a united Germany, others including the Poles may want more concrete assurances, not to say guarantees.

Recommendations

1. That we continue to indicate to the FRG that we look to them to take the lead in addressing this issue.
2. That we continue to make clear, in public and private, our position on the permanence of the current German-Polish border.
3. That we review the various precedents and possibilities for establishing, acknowledging, and/or guaranteeing this border, while avoiding commitment to any particular form.
4. That we seek agreement with the One-plus-Three and then with the Two-plus-Four on when the Poles will be invited to join the discussion.
5. That at that meeting we hear the Poles out, and indicate our intention to come back to the issue after the Bundestag and Volkskammer have issued their declarations, and, ideally, after the Germans and Poles have held further discussions over the formal procedures for their border treaty.

DRAFTED: EUR/CE:JSeymour
3/23/90 x72005 SECEEW 2142
CLEARED: EUR/EEY:JSwihart
EUR/CE:PShostal
EUR:JDobbins



United States Department of State

Washington, D. C. 20520

APR 6 1990

INFORMATION MEMORANDUM

~~SECRET~~

S/S

TO: C - Mr. Zoellick

FROM: EUR - R. G. H. Seitz

SUBJECT: Soviet Approach to German Unification, including
Current Applicability of the Potsdam Agreement

SUMMARY

Attached is an analysis of the Soviet approach to German unification, focussing on the Soviet misuse of legal documents on rights and responsibilities. Also attached is L's analysis of which points in the Potsdam Agreement legally remain open.

A key difference between the Soviet and Western approaches to Germany is that the Soviets have not specified which rights they have retained as the Allies did in the Relations Convention. Soviet policy has been to try to gain Western acceptance of transfer of some Soviet responsibilities to the GDR when convenient for the Soviets to do so, but also to retain their rights when clearly in Soviet interest. Soviet statements also suggest some provisions of Potsdam which we consider inoperative (most notably German demilitarization) remain unresolved in their eyes. To bolster their position, the Soviets have also misinterpreted Allied intentions (an example being Allied approval of unification via Article 23).

The ambiguities make it possible for the USSR to put a broad interpretation on its rights. It would be difficult politically to deny to the Soviets the same rights we retained, but Soviet claims to have retained more rights should be resisted. To prevent possible future Soviets undermining of the settlement on Germany, what is needed is Soviet political commitment to the outcome, coupled with a sealing off of the legal avenues by which the Soviets could claim future rights.

Attachments:

Tab 1 - "The Soviet Approach to German Unification"

Tab 2 - "Current Applicability of the Potsdam Agreement"

~~SECRET~~
DECL:OADR

DECLASSIFIED
PER E.O. 12958,
AS AMENDED

2008-0658-MR 03/10/2010 MM

Information Memorandum on the Soviet Approach to German
Unification

Draft: EUR/CE:AGoodman *14*
4/05/90 ext. 72005 wang SECEEW #2198

Clear: EUR:JFDobbins
EUR/CE:JSeymour
EUR/SOV:JTefft
L/EUR:MPeay
P:MMcKinley
C:NBurns (info)
S/P:RGeorge

14-2

The Soviet Approach to German Unification

Draft: EUR/CE:AGoodman *AL*
4/05/90 ext. 72005 wang SECEEW #2189

Clear: EUR:JFDobbins
EUR/CE:JSeymour *JS*
EUR/SOV:JTefft *JT*
L/EUR:MPeay *MP*
P:MMcKinley *MM*
C:NBurns (info) *NB*
S/P:RGeorge *RG*

} *LAB*

~~SECRET~~

Germany Task Force Paper

THE SOVIET APPROACH TO GERMAN UNIFICATION

I. Aims of Soviet Policy

- o The traditional goals of Soviet policy towards Germany in the postwar era have been to prevent Germany from becoming a threat to Soviet security and to undermine U.S. influence, particularly the American military presence.
- o The Soviets have at different times pursued various options to this end, including neutralization, demilitarization, etc.
- o Their approach has also included occasional posturing as the advocate of German unification when the Soviets felt the conditions for unity would further their goals.
 - The Soviets advanced proposals for unification throughout the 1950s (e.g., the 1952 Stalin note) until the early 1960s when they switched emphasis to acceptance of the existence of two German states (and a special status for West Berlin) as the solution.
 - Periodically, as the German Question again became a topic on the European agenda, the Soviets have attempted to revive their claim to be the defender of German unity in order to manipulate German public opinion on arms control and other issues.
- o Ironically, while still occasionally trying to portray themselves as supporters of German self-determination, the Soviets have increasingly expressed concern over the pace and direction of German unification, as the goal has come increasingly within reach.
- o While Gorbachev's policy also is motivated by the traditional Soviet goal of preventing a security threat from Germany, Gorbachev the tactician is prepared to depart from traditional Soviet options for achieving this goal. How far this goes (i.e., his "bottom line") is not yet clear.

DECLASSIFIED
PER E.O. 12958,
AS AMENDED
2008-0658-MR
03/10/2010 MM

~~SECRET~~
DECL:OADR

~~SECRET~~

-2-

II. Soviet Political Use of the Potsdam Agreement

- o The Potsdam Agreement constitutes one of the principal binding international agreements among the Four Powers establishing the immediate post-war Occupation regime for Germany and as such is the main source cited by the Soviets concerning the origin of their rights in Germany.
 - For discussion of the legal questions still open from the Potsdam agreement, see the attached paper by L, "Current Applicability of the Potsdam Agreement."
- o The Potsdam accord served as the substantive core of the Four-Power program for governing Germany in the immediate aftermath of the war, establishing some arrangements clearly meant to be provisional and others to be permanent.
 - The division of Germany was one aspect clearly designed to be provisional.
 - Another provisional aspect was the delimitation of the Polish western frontier and the disposition of East Prussia, both of which were legally specified as subject to final determination in a "peace settlement."
- o Many of the provisions of the Potsdam agreement became essentially inoperative upon assumption of sovereignty by the FRG and GDR, such as demilitarization, control of German education, decentralization, control of scientific bodies and research institutions, etc.
- o A key section of Potsdam which became inoperative specified "the complete disarmament and demilitarization of Germany and the elimination or control of all German industry that could be used for military production" (Article II).
 - A main element in Soviet proposals for unification has been the disarmament of Germany. Up through the 1960s, the Soviets repeatedly reproached the West for allowing the FRG to re-arm (while claiming this as justification for their own arming of the GDR).
 - This concern is reflected in recent Soviet statements on the need to limit a unified Germany's military potential.
 - In Two-plus-Four, the Soviets may point to this issue as a provision of the Potsdam accord which is still open and needs to be resolved.

~~SECRET~~

~~SECRET~~

-3-

- o Another area which the Soviets might claim is not yet resolved concerns reparations (Article III). This may apply to other parties as well. As the L paper points out, aspects of this issue which might arguably be open do not stem from Potsdam itself, but from subsequent documents addressing the reparations question.

III. Soviet Use and Misuse of Legalisms

- o Unlike the Western Allies, who specified which rights they were retaining when the FRG was granted sovereignty in the Relations Convention, the Soviets have not delineated specifically which rights they have retained (at least not in any document available to the West).
- o Virtually all documents issued by the Soviets up to the mid-1960s contain provisions indicating that rights and responsibilities for Germany as a whole were not affected. Some documents (e.g., the 1964 Soviet-GDR Friendship Treaty) explicitly include Potsdam in these formulations.
- o In all of these documents, however, the Soviets also apparently transferred certain (unspecified) rights to the GDR. The Western response was to issue statements denying the Soviet right to transfer their responsibilities for Germany as a whole in this fashion.
- o As the Soviets progressively granted more sovereignty to the GDR, the statements implying retention of rights and responsibilities have become increasingly vague.
 - Nonetheless, the Soviets have continued to assert their rights and responsibilities. For example, in November 1972, following the FRG-GDR treaty, the Soviets joined the West in a Four-Power declaration supporting FRG and GDR applications to join the U.N. This declaration affirmed "that this membership shall in no way affect the rights and responsibilities of the Four Powers and the corresponding related Quadripartite agreements, decisions, and practices."
 - The West has continued denying a Soviet right to transfer responsibilities to the GDR. For example, in response to the 1975 Soviet-GDR treaty, the Allies declared that the rights and responsibilities of the Four Powers for Berlin and Germany as a whole remain unaffected by the Treaty of Friendship, Cooperation and Mutual Assistance concluded by the USSR and GDR."

~~SECRET~~

~~SECRET~~

-4-

- o Implicit in some Soviet statements, however, are transfers of responsibilities to which the West in principle also subscribes (e.g., Soviet proposals on unification in the late 1950s emphasized that unification was a matter for the two German states to decide).
- o The practical impact of these legal ambiguities has been that throughout the postwar era the Soviets have tried to transfer responsibilities when it suited them to do so (e.g., to make status points on Berlin or to win greater recognition of GDR sovereignty), but have retained their rights whenever it was clearly in their interest to do so.
- o In terms of Two-plus-Four discussions, the net effect of this practical experience, combined with the ambiguities, imprecision and the Western rejection of transferral of Soviet rights, is that the Soviets have positioned themselves to claim a broad interpretation of their rights, regardless of what Soviet original intent was.

IV. The Case of Unification via Article 23

- o The recent Soviet argument that the Allies can prevent unification via Article 23 serves as an example of the Soviet misuse of legalisms.
 - For a discussion of Four Power rights on this question see L's separate memorandum "GDR Accession under Article 23 of the FRG Basic Law."
- o The Soviets raised the Article 23 issue out of concern that following the March 18 GDR election, there would be a rush to unification which the Soviets could not control or prevent.
 - A latent Soviet concern is that other areas not currently part of the FRG or GDR (e.g., Wroclaw or Kaliningrad) could accede to the FRG via Article 23.
 - Alleged precedent for blocking use of Article 23 is the 1949 Communication of the Western Military Governors to the Bonn Parliamentary Council which suspended the use of Article 23 with regard to Berlin, as well as BK/O (49) 139 issued by the Allied Kommandatura on 30 June 1949 which denied a resolution of the Berlin Senat to make Berlin part of the FRG via Article 23.

~~SECRET~~

~~SECRET~~

-5-

- o While the Soviets have a plausible argument that the Allies never intended Article 23 to be used indiscriminately, they are fundamentally misreading the Western purpose.
 - The Allies did not intend to suspend the use of Article 23 for GDR Laender to accede to the FRG.
 - The suspension of Article 23 with regard to Berlin was due to the city's special status and intended to prevent the formalization of the existence of two German states (which could handicap future efforts to realize the goal of unification).
- o The Soviet proposal also flies in the face of repeated Soviet subscriptions to the general principle of self-determination and specific Soviet statements that the question of unifying the FRG and GDR into a single state is "entirely within the competence of the two German states themselves" (Soviet Aide-Memoire to the U.S. of 24 March 1958).

V. Implications for Dealing with the Soviets at Two-plus-Four

- o A key question which should be answered early in the Two-plus-Four process is which rights the Soviets think they have.
- o In the absence of any documentation delineating Soviet rights unambiguously beyond the Potsdam agreement, it would be difficult politically (although probably less difficult legally) for the West to deny to the Soviets those rights which the Western Allies specifically said they have retained for themselves (e.g., borders, unification, Berlin, and a final settlement).
- o On the other hand, the West should resist any Soviet claims to possess more rights than the Allies have.
 - The right to station troops in Germany presents an area of possible ambiguity for both sides. Although the Soviets signed a stationing agreement with the GDR, it is not known what rights the Soviets may have preserved in this regard. Since our own situation in this regard entails some ambiguity, we shall have to ensure that the settlement on Germany removes all doubts in this regard for both sides.

~~SECRET~~

~~SECRET~~

-6-

- Any claimed right by the Soviets concerning demilitarization or the creation of a special disarmament zone in Germany should also be resisted as contrary to political realities and counterproductive to CFE efforts.
- o The West should particularly resist Soviet interpretations (e.g., on unification via Article 23) which do not conform to the Allied position and which do not conform to past Soviet political statements.
- The West should also resist Soviet interpretations which run contrary to our own about which are "external" and which are "internal" aspects of the unification process, reminding the Soviets that the agreed formula in Ottawa specified the "external" aspects only as the subject of the Two-plus-Four talks.
- o In the final analysis what will be decisive is Soviet political agreement to a democratic unified Germany within the current borders of the FRG, GDR and Berlin, free to make its own political and security arrangements (e.g., continued membership in NATO). The West should try to gain Soviet commitment to this political outcome, either indirectly through a simple renunciation of rights or directly through exact specification of the outcome, while at the same time sealing off legal avenues via which the Soviets later could try to undermine the settlement.
- o This suggests that, as part of the settlement, a renunciation (either specific or all-inclusive) must be obtained from the Soviets regarding the Four-Power rights clearly retained (borders, Berlin, unification, and a settlement).
- o This also suggests that to ensure no legal basis for future Soviet challenges to the settlement, a clause involving general renunciation of all "other" Four-Power rights will be essential.

~~SECRET~~

~~SECRET~~

Current Applicability of the Potsdam Agreement

Summary

The Potsdam Agreement constitutes one of the principal binding international agreements among the Four Powers establishing the immediate post-war Occupation regime for Germany. Potsdam served as the substantive core of the Four-Power program for governing Germany in the immediate aftermath of the war, but its provisions became essentially inoperative upon assumption of sovereignty by the FRG and GDR (pursuant to arrangements reached separately by the Three Powers with the FRG and by the Soviet Union with the GDR). Its legal significance today resides in its provisions delimiting the Polish western frontier (the Oder-Neisse line) and the disposition of the territory of East Prussia. While these borders have been observed throughout the post-war era, they are legally provisional in nature, subject to final determination in a peace settlement.

Discussion

The Potsdam Agreement is the name given to the protocol of proceedings signed on August 2, 1945 by the U.S., U.K. and Soviet heads of state at the conclusion of the Berlin (Potsdam) conference. (A separate official record of the conference also comprises part of the agreement, but is not generally cited in discussions of the agreement.) France agreed to a number of the provisions of the agreement, with certain reservations (not relevant here) on August 7, 1945. The Potsdam Agreement consists of twenty-one provisions, each addressing a different aspect of the immediate post-war situation. Almost all of these provisions are no longer relevant. Many dealt solely with the **mechanics** of military governance at war's end; others had no **substantive** significance because they did not reflect agreement among the Allies. A list of each such topic, together with a brief notation on why it is no longer relevant, follows:

~~SECRET~~

DECL: OADR

DECLASSIFIED
PER E.O. 12958,
AS AMENDED
2008-0658-MR
03/10/2010 MM

~~SECRET~~

-2-

- I. Establishment of a Council of Foreign Ministers (procedure ended by Cold War).
- IV. Disposal of the German Navy and Merchant Marine (FRG has regained naval sovereignty).
- VI. War Criminals (no substantive agreement at Potsdam; subsequently regulated by separate Four-Power treaty; U.S. Justice Dept. war criminal prosecutions are pursuant only to U.S. law governing illegal entry into U.S.).
- VII. Austria (no substantive agreement at Potsdam; subsequently resolved by Austrian State Treaty).
- IX. Conclusion of Peace Treaties (treaties with WWII belligerents other than Germany accomplished separately).
- X. Territorial Trusteeship (trusteeship over former Italian colonies dealt with in peace treaty with Italy)
- XI. Allied Control in Rumania, Bulgaria and Hungary (interim arrangement for military government in these states)
- XII. Orderly Transfer of German Populations (procedure for flow of German refugees from Eastern Europe)
- XIII. Oil Equipment in Rumania (procedure for removal of such equipment)
- XIV. Iran (removal of Allied troops from Tehran)
- XV. Tangier (establishment of international zone)
- XVI. Black Sea Straits (procedure for discussions with Turkey on Montreux Convention)
- XVII. International Inland Waterways (no substantive agreement at Potsdam)
- XVIII. European Inland Transport (procedure for separate conference)
- XIX. Directives to Allied Military Commanders (procedure for communicating Potsdam results to military commanders).
- XX. Use of Allied Property as Reparations (no substantive agreement at Potsdam)
- XXI. Military Talks (confirming occurrence of military talks in connection with Potsdam conference).

~~SECRET~~

~~SECRET~~

-3-

Points II and III were of primary significance in the immediate post-war era insofar as they established principal Allied aims in governing Germany. These provisions were relevant during the period of military governance of Germany (1945-1949), and to a much lesser extent during the existence of the civilian occupation governments (the Allied High Commission) from 1949-1955, but became inoperative once the Federal Republic of Germany attained full sovereignty in 1955 pursuant to Article 1(2) of the Relations Convention, and the GDR attained sovereignty from the Soviet Union. (It should be noted that these decisions to vest sovereignty in the FRG and GDR were not reached quadripartitely, thus leaving open the possible Soviet assertion that formal abrogation by the Four of the principles laid down in Potsdam relating to the governance of occupied Germany (e.g. demilitarization) is still necessary.)

The "Principles to Govern the Treatment of Germany in the Initial Control Period" contained in Point II included both political and economic goals. Among the political aims were the disarmament and demilitarization of Germany, abolition of all vestiges of the Nazi Party, removal of Nazi officials from public office, decentralization of the German government, and the eventual political reconstruction of Germany "on a democratic basis" and on the basis of "peaceful cooperation in international life.". Economic goals included the prohibition of arms production, decartelization, and an emphasis on an agrarian economy.

Following assumption of sovereignty by the Federal Republic, Allied laws implementing certain of these policies became German law. Certain enactments by the Allied Control Council and the Allied Kommandatura in Berlin in implementation of Potsdam, e.g. laws relating to demilitarization and Nazi Party manifestations, remain valid Allied law in Berlin today.

Point III established the general principle that each ally should satisfy its reparation claims from its own zone of occupation. Consequently, the Western Allies later addressed **reparations** issues with German authorities in the West, while the **Soviets** resolved their claims with the GDR. While certain **reparations** issues may, in the U.S. view, remain unresolved, **these issues** do not arise from Potsdam but rather from other sources.

~~SECRET~~

~~SECRET~~

-4-

Of operative importance today are points V and VIII of the Potsdam Agreement, dealing with the former East Prussian territory and with the Oder-Neisse line, respectively. Both provisions delimited borders that continue to be respected, and which were confirmed in the FRG state treaties with the USSR and with Poland. Neither Potsdam provision served as a final determination of borders, however. Point V places the East Prussian territory surrounding Koenigsberg under Soviet administration "pending the final determination of territorial questions at the peace settlement." At the same time, it conveys agreement in principle to the ultimate transfer of this territory to the U.S.S.R. Point VIII(B) established the Polish western frontier along the Oder-Neisse line, thus placing the area lying eastwards under Polish administration, while reaffirming that "the final delimitation of the western frontier of Poland should await the settlement." (See attached text of Potsdam Agreement.)

The Potsdam Agreement was less than two years old when serious disagreement emerged over the meaning of the boundary provisions. The Soviets in 1947 expressed the view that Potsdam reflected not provisional but final agreement on the frontier between Germany and Poland, and that this agreement would merely be formally confirmed at the peace settlement. This line subsequently was adopted by Poland and the GDR. The U.S. maintained that the arrangements on borders reached at Potsdam were provisional (while not, however, expressing any anticipation that actual borders would be redrawn). The U.S. view is reflected in the Convention on Relations between the Three Powers and the Federal Republic Germany. Article 2 provides for retention of Allied rights and responsibilities relating to Berlin and Germany as a whole "including the reunification of Germany and a peace settlement," while Article 7(1) provides that "the final determination of the boundaries of Germany must await such a (peace) settlement." The FRG, in concluding its 1970 treaties with Poland and the USSR confirming the inviolability of the borders established at Potsdam, informed the three powers that these treaties did not affect Allied rights and responsibilities which relate to the borders of Germany. These respective positions have been maintained over the years.

~~SECRET~~

~~SECRET~~

-5-

Drafted:L/EBC:KPropp^{LD}
4/4/90 x77770
WPPEBC 155

~~SECRET~~

ND
AREA

London
1944, as

BERLIN (POTSDAM) CONFERENCE, 1945

*Protocol of proceedings approved at Berlin (Potsdam) August 2, 1945,
with annexes¹*

*A Decade of American Foreign Policy:
Basic Documents, 1941-49 (U.S. Govern-
ment Printing Office, 1950), p. 34*

The Berlin Conference of the Three Heads of Government of the U.S.S.R., U.S.A., and U.K., which took place from July 17 to August 2, 1945, came to the following conclusions:

I. ESTABLISHMENT OF A COUNCIL OF FOREIGN MINISTERS

A. The Conference reached the following agreement for the establishment of a Council of Foreign Ministers to do the necessary preparatory work for the peace settlements:

" 1. There shall be established a Council composed of the Foreign Ministers of the United Kingdom, the Union of Soviet Socialist Republics, China, France, and the United States.

" 2. (i) The Council shall normally meet in London which shall be the permanent seat of the joint Secretariat which the Council will form. Each of the Foreign Ministers will be accompanied by a high-ranking Deputy, duly authorized to carry on the work of the Council in the absence of his Foreign Minister, and by a small staff of technical advisers.

" (ii) The first meeting of the Council shall be held in London not later than September 1st 1945. Meetings may be held by common agreement in other capitals as may be agreed from time to time.

" (3) (i) As its immediate important task, the Council shall be authorized to draw up, with a view to their submission to the United Nations, treaties of peace with Italy, Rumania, Bulgaria, Hungary and Finland, and to propose settlements of territorial questions outstanding on the termination of the war in Europe. The Council shall be utilized for the preparation of a

¹ The Berlin Conference met at Potsdam from July 17 to Aug. 2, 1945. For complete documentation, see 1945 F.R. Rel. (Conference of Berlin (Potsdam) I and II).

peace settlement for Germany to be accepted by the Government of Germany when a government adequate for the purpose is established.

"(ii) For the discharge of each of these tasks the Council will be composed of the Members representing those States which were signatory to the terms of surrender imposed upon the enemy State concerned. For the purposes of the peace settlement for Italy, France shall be regarded as a signatory to the terms of surrender for Italy. Other Members will be invited to participate when matters directly concerning them are under discussion.

"(iii) Other matters may from time to time be referred to the Council by agreement between the Member Governments.

"(4) (i) Whenever the Council is considering a question of direct interest to a State not represented thereon, such State should be invited to send representatives to participate in the discussion and study of that question.

"(ii) The Council may adapt its procedure to the particular problems under consideration. In some cases it may hold its own preliminary discussions prior to the participation of other interested States. In other cases, the Council may convoke a formal conference of the States chiefly interested in seeking a solution of the particular problem."

B. It was agreed that the three Governments should each address an identical invitation to the Governments of China and France to adopt this text and to join in establishing the Council. The text of the approved invitation was as follows:

Council of Foreign Ministers Draft for identical invitation to be sent separately by each of the Three Governments to the Governments of China and France

"The Governments of the United Kingdom, the United States and the U.S.S.R. consider it necessary to begin without delay the essential preparatory work upon the peace settlements in Europe. To this end they are agreed that there should be established a Council of the Foreign Ministers of the Five Great Powers to prepare treaties of peace with the European enemy States, for submission to the United Nations. The Council would also be empowered to propose settlements of outstanding territorial questions in Europe and to consider such other matters as member Governments might agree to refer to it.

"The text adopted by the Three Governments is as follows:

Here insert final agreed text of the Proposal

"In agreement with the Governments of the United States and U.S.S.R., His Majesty's Government in the United Kingdom and U.S.S.R., the United States Government, the United Kingdom and the Soviet Government extend a cordial invitation to the Government of China (France) to adopt

the text quoted above and to join in setting up the Council.² *His Majesty's Government, The United States Government, The Soviet Government* attach much importance to the participation of the *Chinese Government (French Government)* in the proposed arrangements and they hope to receive an early and favorable reply to this invitation."

C. It was understood that the establishment of the Council of Foreign Ministers for the specific purposes named in the text would be without prejudice to the agreement of the Crimea Conference³ that there should be periodical consultation between the Foreign Secretaries of the United States, the Union of Soviet Socialist Republics and the United Kingdom.

D. The Conference also considered the position of the European Advisory Commission in the light of the Agreement to establish the Council of Foreign Ministers. It was noted with satisfaction that the Commission had ably discharged its principal tasks by the recommendations that it had furnished for the terms of surrender for Germany, for the zones of occupation in Germany and Austria and for the inter-Allied control machinery in those countries. It was felt that further work of a detailed character for the coordination of Allied policy for the control of Germany and Austria would in future fall within the competence of the Control Council at Berlin and the Allied Commission at Vienna. Accordingly it was agreed to recommend that the European Advisory Commission be dissolved.

II. THE PRINCIPLES TO GOVERN THE TREATMENT OF GERMANY IN THE INITIAL CONTROL PERIOD

A. Political Principles

1. In accordance with the Agreement on Control Machinery in Germany, supreme authority in Germany is exercised, on instructions from their respective Governments, by the Commanders-in-Chief of the armed forces of the United States of America, the United Kingdom, the Union of Soviet Socialist Republics, and the French Republic, each in his own zone of occupation, and also jointly, in matters affecting Germany as a whole, in their capacity as members of the Control Council.

2. So far as is practicable, there shall be uniformity of treatment of the German population throughout Germany.

² The words in italics, which were underscored in the original, were obviously intended to supply the form of invitation to be used by each of the three inviting Governments, but there appear to have been inadvertent omissions in the text. The first sentence of this paragraph presumably should read: "In agreement with the Governments of the *United States and U.S.S.R., His Majesty's Government in the United Kingdom (United Kingdom and U.S.S.R., the United States Government)* (*United States and United Kingdom, the Soviet Government*) extend[s] a cordial invitation to the Government of *China (France)* to adopt the text quoted above and to join in setting up the Council" (1945 For. Rel. (Conference of Berlin (Potsdam), II, 1480).

³ *Ante*, pp. 1011 and 1019.

3. The purposes of the occupation of Germany by which the Control Council shall be guided are:

(i) The complete disarmament and demilitarization of Germany and the elimination or control of all German industry that could be used for military production. To these ends:

a. All German land, naval and air forces, the S. S., S. A., S. D., and Gestapo, with all their organizations, staffs and institutions, including the General Staff, the Officers' Corps, Reserve Corps, military schools, war veterans' organizations and all other military and semi-military organizations, together with all clubs and associations which serve to keep alive the military tradition in Germany, shall be completely and finally abolished in such manner as permanently to prevent the revival or reorganization of German militarism and Nazism:

b. All arms, ammunition and implements of war and all specialized facilities for their production shall be held at the disposal of the Allies or destroyed. The maintenance and production of all aircraft and all arms, ammunition and implements of war shall be prevented.

ii. To convince the German people that they have suffered a total military defeat and that they cannot escape responsibility for what they have brought upon themselves, since their own ruthless warfare and the fanatical Nazi resistance have destroyed German economy and made chaos and suffering inevitable.

iii. To destroy the National Socialist Party and its affiliated and supervised organizations, to dissolve all Nazi institutions, to ensure that they are not revived in any form, and to prevent all Nazi and militarist activity or propaganda.

iv. To prepare for the eventual reconstruction of German political life on a democratic basis and for eventual peaceful cooperation in international life by Germany.

4. All Nazi laws which provided the basis of the Hitler regime or established discriminations on grounds of race, creed, or political opinion shall be abolished. No such discriminations, whether legal, administrative or otherwise, shall be tolerated.

5. War criminals and those who have participated in planning or carrying out Nazi enterprises involving or resulting in atrocities or war crimes shall be arrested and brought to judgment. Nazi leaders, influential Nazi supporters and high officials of Nazi organizations and institutions and any other persons dangerous to the occupation or its objectives shall be arrested and interned.

6. All members of the Nazi Party who have been more than nominal participants in its activities and all other persons hostile to Allied purposes shall be removed from public and semi-public office, and from positions of re-

sponsibility in important private undertakings. Such persons shall be replaced by persons who, by their political and moral qualities, are deemed capable of assisting in developing genuine democratic institutions in Germany.

7. German education shall be so controlled as completely to eliminate Nazi and militarist doctrines and to make possible the successful development of democratic ideas.

8. The judicial system will be reorganized in accordance with the principles of democracy, of justice under law, and of equal rights for all citizens without distinction of race, nationality or religion.

9. The administration in Germany should be directed towards the decentralization of the political structure and the development of local responsibility. To this end:

(i) local self-government shall be restored throughout Germany on democratic principles and in particular through elective councils as rapidly as is consistent with military security and the purposes of military occupation;

(ii) all democratic political parties with rights of assembly and of public discussion shall be allowed and encouraged throughout Germany;

(iii) representative and elective principles shall be introduced into regional, provincial and state (Land) administration as rapidly as may be justified by the successful application of these principles in local self-government;

(iv) for the time being, no central German Government shall be established. Notwithstanding this, however, certain essential central German administrative departments, headed by State Secretaries, shall be established, particularly in the fields of finance, transport, communications, foreign trade and industry. Such departments will act under the direction of the Control Council.

10. Subject to the necessity for maintaining military security, freedom of speech, press and religion shall be permitted, and religious institutions shall be respected. Subject likewise to the maintenance of military security, the formation of free trade unions shall be permitted.

B. Economic Principles

11. In order to eliminate Germany's war potential, the production of arms, ammunition and implements of war as well as all types of aircraft and sea-going ships shall be prohibited and prevented. Production of metals, chemicals, machinery and other items that are directly necessary to a war economy shall be rigidly controlled and restricted to Germany's approved post-war peacetime needs to meet the objectives stated in Paragraph 15. Productive capacity not needed for permitted production shall be removed in accordance with the reparations plan recommended by the Allied Commission on Repa-

rations and approved by the Governments concerned or if not removed shall be destroyed.

12. At the earliest practicable date, the German economy shall be decentralized for the purpose of eliminating the present excessive concentration of economic power as exemplified in particular by cartels, syndicates, trusts and other monopolistic arrangements.

13. In organizing the German Economy, primary emphasis shall be given to the development of agriculture and peaceful domestic industries.

14. During the period of occupation Germany shall be treated as a single economic unit. To this end common policies shall be established in regard to:

- a. mining and industrial production and its allocation;
- b. agriculture, forestry and fishing;
- c. wages, prices and rationing;
- d. import and export programs for Germany as a whole;
- e. currency and banking, central taxation and customs;
- f. reparation and removal of industrial war potential;
- g. transportation and communications.

In applying these policies account shall be taken, where appropriate, of varying local conditions.

15. Allied controls shall be imposed upon the German economy but only to the extent necessary:

a. to carry out programs of industrial disarmament, demilitarization, of reparations, and of approved exports and imports.

b. to assure the production and maintenance of goods and services required to meet the needs of the occupying forces and displaced persons in Germany and essential to maintain in Germany average living standards not exceeding the average of the standards of living of European countries. "European countries" means all European countries excluding the United Kingdom and the U.S.S.R.

(c) to ensure in the manner determined by the Control Council the equitable distribution of essential commodities between the several zones so as to produce a balanced economy throughout Germany and reduce the need for imports.

d. to control German industry and all economic and financial international transactions including exports and imports, with the aim of preventing Germany from developing a war potential and of achieving the other objectives named herein.

e. to control all German public or private scientific bodies, research and experimental institutions, laboratories, et cetera, connected with economic activities.

16. In the imposition and maintenance of economic controls established by the Control Council, German administrative machinery shall be created

and the German authorities shall be required to the fullest extent practicable to **proclaim** and assume administration of such controls. Thus it should be brought home to the German people that the responsibility for the administration of such controls and any break-down in these controls will rest with themselves. Any German controls which may run counter to the objectives of occupation will be prohibited.

17. Measures shall be promptly taken:

- a. to effect essential repair of transport;
- b. to enlarge coal production;
- c. to maximize agricultural output; and
- d. to effect emergency repair of housing and essential utilities.

18. Appropriate steps shall be taken by the Control Council to exercise control and the power of disposition over German-owned external assets not already under the control of United Nations which have taken part in the war against Germany.

19. Payment of Reparations should leave enough resources to enable the German people to subsist without external assistance. In working out the economic balance of Germany the necessary means must be provided to pay for imports approved by the Control Council in Germany. The proceeds of exports from current production and stocks shall be available in the first place for payment for such imports.

The above clause will not apply to the equipment and products referred to in paragraphs 4 (a) and 4 (b) of the Reparations Agreement.

III. REPARATIONS FROM GERMANY

1. Reparation claims of the U.S.S.R. shall be met by removals from the zone of Germany occupied by the U.S.S.R., and from appropriate German external assets.

2. The U.S.S.R. undertakes to settle the reparation claims of Poland from its own share of reparations.

3. The reparation claims of the United States, the United Kingdom and other countries entitled to reparations shall be met from the Western Zones and from appropriate German external assets.

4. In addition to the reparations to be taken by the U.S.S.R. from its own zone of occupation, the U.S.S.R. shall receive additionally from the Western Zones:

- a. 15 per cent of such usable and complete industrial capital equipment, in the first place from the metallurgical, chemical and machine manufacturing industries as is unnecessary for the German peace economy and should be removed from the Western Zones of Germany, in exchange for an equivalent value of food, coal, potash, zinc, timber, clay products, petroleum products, and such other commodities as may be agreed upon.

(b) 10 per cent of such industrial capital equipment as is unnecessary for the German peace economy and should be removed from the Western Zone to be transferred to the Soviet Government on reparations account with payment or exchange of any kind in return.

Removals of equipment as provided in (a) and (b) above shall be made simultaneously.

5. The amount of equipment to be removed from the Western Zone on account of reparations must be determined within six months from now at the latest.

6. Removals of industrial capital equipment shall begin as soon as possible and shall be completed within two years from the determination specified in paragraph 5. The delivery of products covered by 4(a) above shall begin as soon as possible and shall be made by the U.S.S.R. in agreed instalments within five years of the date hereof. The determination of the amount and character of the industrial capital equipment unnecessary for the German peace economy and therefore available for reparation shall be made by the Control Council under policies fixed by the Allied Commission on Reparations, with the participation of France, subject to the final approval of the Zone Commander in the Zone from which the equipment is to be removed.

7. Prior to the fixing of the total amount of equipment subject to removal, advance deliveries shall be made in respect to such equipment as will be determined to be eligible for delivery in accordance with the procedure set forth in the last sentence of paragraph 6.

8. The Soviet Government renounces all claims in respect of reparations to shares of German enterprises which are located in the Western Zones of Germany as well as to German foreign assets in all countries except those specified in paragraph 9 below.

9. The Governments of the U.K. and U.S.A. renounce all claims in respect of reparations to shares of German enterprises which are located in the Eastern Zone of occupation in Germany, as well as to German foreign assets in Bulgaria, Finland, Hungary, Rumania and Eastern Austria.

10. The Soviet Government makes no claims to gold captured by the Allied troops in Germany.

IV. DISPOSAL OF THE GERMAN NAVY AND MERCHANT MARINE

A. The following principles for the distribution of the German Navy were agreed:

1. The total strength of the German surface navy, excluding ships sunk and those taken over from Allied Nations, but including ships under construction or repair, shall be divided equally among the U.S.S.R., U.K., and U.S.A.

2. Ships under construction or repair mean those ships whose construction or repair may be completed within three to six months, according to the

type of ship. Whether such ships under construction or repair shall be completed or repaired shall be determined by the technical commission appointed by the Three Powers and referred to below, subject to the principle that their completion or repair must be achieved within the time limits above provided, without any increase of skilled employment in the German shipyards and without permitting the reopening of any German ship building or connected industries. Completion date means the date when a ship is able to go out on its first trip, or, under peacetime standards, would refer to the customary date of delivery by shipyard to the Government.

3. The larger part of the German submarine fleet shall be sunk. Not more than thirty submarines shall be preserved and divided equally between the U.S.S.R., U.K., and U.S.A. for experimental and technical purposes.

4. All stocks of armament, ammunition and supplies of the German Navy appertaining to the vessels transferred pursuant to paragraphs (1) and (3) hereof shall be handed over to the respective powers receiving such ships.

5. The Three Governments agree to constitute a tripartite naval commission comprising two representatives for each government, accompanied by the requisite staff, to submit agreed recommendations to the Three Governments for the allocation of specific German warships and to handle other detailed matters arising out of the agreement between the Three Governments regarding the German fleet. The Commission will hold its first meeting not later than 15th August, 1945, in Berlin, which shall be its headquarters. Each Delegation on the Commission will have the right on the basis of reciprocity to inspect German warships wherever they may be located.

6. The Three Governments agreed that transfers, including those of ships under construction and repair, shall be completed as soon as possible, but not later than 15th February, 1946. The Commission will submit fortnightly reports, including proposals for the progressive allocation of the vessels when agreed by the Commission.

B. The following principles for the distribution of the German Merchant Marine were agreed:

1. The German Merchant Marine, surrendered to the Three Powers and wherever located, shall be divided equally among the U.S.S.R., the U.K., and the U.S.A. The actual transfers of the ships to the respective countries shall take place as soon as practicable after the end of the war against Japan. The United Kingdom and the United States will provide out of their shares of the surrendered German merchant ships appropriate amounts for other Allied States whose merchant marines have suffered heavy losses in the common cause against Germany, except that the Soviet Union shall provide out of its share for Poland.

(2) The allocation, manning, and operation of these ships during the Japanese War period shall fall under the cognizance and authority of the Combined Shipping Adjustment Board and the United Maritime Authority.

(3) While actual transfer of the ships shall be delayed until after the end of the war with Japan, a Tripartite Shipping Commission shall inventory and value all available ships and recommend a specific distribution in accordance with paragraph (1).

(4) German inland and coastal ships determined to be necessary to the maintenance of the basic German peace economy by the Allied Control Council of Germany shall not be included in the shipping pool thus divided among the Three Powers.

(5) The Three Governments agree to constitute a tripartite merchant marine commission comprising two representatives for each Government, accompanied by the requisite staff, to submit agreed recommendations to the Three Governments for the allocation of specific German merchant ships and to handle other detailed matters arising out of the agreement between the Three Governments regarding the German merchant ships. The Commission will hold its first meeting not later than September 1st, 1945, in Berlin, which shall be its headquarters. Each delegation on the Commission will have the right on the basis of reciprocity to inspect the German merchant ships wherever they may be located.

V. CITY OF KOENIGSBERG AND THE ADJACENT AREA

The Conference examined a proposal by the Soviet Government to the effect that pending the final determination of territorial questions at the peace settlement, the section of the western frontier of the Union of Soviet Socialist Republics which is adjacent to the Baltic Sea should pass from a point on the eastern shore of the Bay of Danzig to the east, north of Braunsberg-Goldap, to the meeting point of the frontiers of Lithuania, the Polish Republic and East Prussia.

The Conference has agreed in principle to the proposal of the Soviet Government concerning the ultimate transfer to the Soviet Union of the City of Koenigsberg and the area adjacent to it as described above subject to expert examination of the actual frontier.

The President of the United States and the British Prime Minister have declared that they will support the proposal of the Conference at the forthcoming peace settlement.

VI. WAR CRIMINALS

The Three Governments have taken note of the discussions which have been proceeding in recent weeks in London between British, United States, Soviet and French representatives with a view to reaching agreement on the methods of trial of those major war criminals whose crimes under the Moscow Declaration of October, 1943⁴ have no particular geographical localisation.

⁴ *Ante*, p. 834.

The Three Governments reaffirm their intention to bring these criminals to swift and sure justice. They hope that the negotiations in London will result in speedy agreement being reached for this purpose, and they regard it as a matter of great importance that the trial of these major criminals should begin at the earliest possible date.³ The first list of defendants will be published before 1st September.

VII. AUSTRIA

The Conference examined a proposal by the Soviet Government on the extension of the authority of the Austrian Provisional Government to all of Austria.

The three governments agreed that they were prepared to examine this question after the entry of the British and American forces into the city of Vienna.

It was agreed that reparations should not be exacted from Austria.

VIII. POLAND

A. Declaration

We have taken note with pleasure of the agreement reached among representative Poles from Poland and abroad which has made possible the formation, in accordance with the decisions reached at the Crimea Conference, of a Polish Provisional Government of National Unity recognized by the Three Powers. The establishment by the British and United States Governments of diplomatic relations with the Polish Provisional Government of National Unity has resulted in the withdrawal of their recognition from the former Polish Government in London, which no longer exists.

The British and United States Governments have taken measures to protect the interest of the Polish Provisional Government of National Unity as the recognized government of the Polish State in the property belonging to the Polish State located in their territories and under their control, whatever the form of this property may be. They have further taken measures to prevent alienation to third parties of such property. All proper facilities will be given to the Polish Provisional Government of National Unity for the exercise of the ordinary legal remedies for the recovery of any property belonging to the Polish State which may have been wrongfully alienated.

The Three Powers are anxious to assist the Polish Provisional Government of National Unity in facilitating the return to Poland as soon as practicable of all Poles abroad who wish to go, including members of the Polish Armed Forces and the Merchant Marine. They expect that those Poles who return home shall be accorded personal and property rights on the same basis as all Polish citizens.

The Three Powers note that the Polish Provisional Government of National Unity, in accordance with the decisions of the Crimea Conference,

³ For an agreement signed at London Aug. 8, 1945, see EAS 472, *post*, p. 1238.

has agreed to the holding of free and unfettered elections as soon as possible on the basis of universal suffrage and secret ballot in which all democratic and anti-Nazi parties shall have the right to take part and to put forward candidates, and that representatives of the Allied press shall enjoy full freedom to report to the world upon developments in Poland before and during the elections.

B. Western Frontier of Poland

In conformity with the agreement on Poland reached at the Crimea Conference the three Heads of Government have sought the opinion of the Polish Provisional Government of National Unity in regard to the accession of territory in the north and west which Poland should receive. The President of the National Council of Poland and members of the Polish Provisional Government of National Unity have been received at the Conference and have fully presented their views. The three Heads of Government reaffirm their opinion that the final delimitation of the western frontier of Poland should await the peace settlement.

The three Heads of Government agree that, pending the final determination of Poland's western frontier, the former German territories east of a line running from the Baltic Sea immediately west of Swinemunde, and thence along the Oder River to the confluence of the western Neisse River and along the Western Neisse to the Czechoslovak frontier, including that portion of East Prussia not placed under the administration of the Union of Soviet Socialist Republics in accordance with the understanding reached at this conference and including the area of the former free city of Danzig, shall be under the administration of the Polish State and for such purposes should not be considered as part of the Soviet zone of occupation in Germany.

IX. CONCLUSION OF PEACE TREATIES AND ADMISSION TO THE UNITED NATIONS ORGANIZATION

The three Governments consider it desirable that the present anomalous position of Italy, Bulgaria, Finland, Hungary and Rumania should be terminated by the conclusion of Peace Treaties. They trust that the other interested Allied Governments will share these views.

For their part the three Governments have included the preparation of a Peace Treaty for Italy as the first among the immediate important tasks to be undertaken by the new Council of Foreign Ministers. Italy was the first of the Axis Powers to break with Germany, to whose defeat she has made a material contribution, and has now joined with the Allies in the struggle against Japan. Italy has freed herself from the Fascist regime and is making good progress towards reestablishment of a democratic government and institutions. The conclusion of such a Peace Treaty with a recognized and democratic Italian Government will make it possible for the three Govern-

ments to fulfill their desire to support an application from Italy for membership of the United Nations.

The three Governments have also charged the Council of Foreign Ministers with the task of preparing Peace Treaties for Bulgaria, Finland, Hungary and Rumania. The conclusion of Peace Treaties with recognized democratic governments in these States will also enable the three Governments to support applications from them for membership of the United Nations. The three Governments agree to examine each separately in the near future, in the light of the conditions then prevailing, the establishment of diplomatic relations with Finland, Rumania, Bulgaria, and Hungary to the extent possible prior to the conclusion of peace treaties with those countries.

The three Governments have no doubt that in view of the changed conditions resulting from the termination of the war in Europe, representatives of the Allied press will enjoy full freedom to report to the world upon developments in Rumania, Bulgaria, Hungary and Finland.

As regards the admission of other States into the United Nations Organization, Article 4 of the Charter of the United Nations declares that:

1. Membership in the United Nations is open to all other peace-loving States who accept the obligations contained in the present Charter and, in the judgment of the organization, are able and willing to carry out these obligations;

2. The admission of any such State to membership in the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council.

The three Governments, so far as they are concerned, will support applications for membership from those States which have remained neutral during the war and which fulfill the qualifications set out above.

The three Governments feel bound however to make it clear that they for their part would not favour any application for membership put forward by the present Spanish Government, which, having been founded with the support of the Axis Powers, does not, in view of its origins, its nature, its record and its close association with the aggressor States, possess the qualifications necessary to justify such membership.

X. TERRITORIAL TRUSTEESHIP

The Conference examined a proposal by the Soviet Government on the question of trusteeship territories as defined in the decision of the Crimea Conference and in the Charter of the United Nations Organization.

After an exchange of views on this question it was decided that the disposition of any former Italian colonial territories was one to be decided in connection with the preparation of a peace treaty for Italy and that the question of Italian colonial territory would be considered by the September Council of Ministers of Foreign Affairs.

XI. REVISED ALLIED CONTROL COMMISSION PROCEDURE IN RUMANIA,
BULGARIA, AND HUNGARY

The three Governments took note that the Soviet Representatives on the Allied Control Commission in Rumania, Bulgaria, and Hungary, have communicated to their United Kingdom and United States colleagues proposals for improving the work of the Control Commissions, now that hostilities in Europe have ceased.

The three Governments agreed that the revision of the procedures of the Allied Control Commissions in these countries would now be undertaken, taking into account the interests and responsibilities of the three Governments which together presented the terms of armistice to the respective countries, and accepting as a basis, in respect of all three countries, the Soviet Government's proposals for Hungary as annexed hereto. (Annex I)

XII. ORDERLY TRANSFER OF GERMAN POPULATIONS

The Three Governments, having considered the question in all its aspects, recognize that the transfer to Germany of German populations, or elements thereof, remaining in Poland, Czechoslovakia and Hungary, will have to be undertaken. They agree that any transfers that take place should be effected in an orderly and humane manner.

Since the influx of a large number of Germans into Germany would increase the burden already resting on the occupying authorities, they consider that the Control Council in Germany should in the first instance examine the problem, with special regard to the question of the equitable distribution of these Germans among the several zones of occupation. They are accordingly instructing their respective representatives on the Control Council to report to their Governments as soon as possible the extent to which such persons have already entered Germany from Poland, Czechoslovakia and Hungary, to submit an estimate of the time and rate at which further transfers could be carried out having regard to the present situation in Germany.

The Czechoslovak Government, the Polish Provisional Government and the Control Council in Hungary are at the same time being informed of the above and are being requested meanwhile to suspend further expulsions pending an examination by the Governments concerned of the report from their representatives on the Control Council.

XIII. OIL EQUIPMENT IN RUMANIA

The Conference agreed to set up two bilateral commissions of experts, one to be composed of United Kingdom and Soviet Members, and one to be composed of United States and Soviet Members, to investigate the facts and examine the documents, as a basis for the settlement of questions arising from the removal of oil equipment in Rumania. It was further agreed that these experts shall begin their work within ten days, on the spot.

XIV. IRAN

It was agreed that Allied troops should be withdrawn immediately from Tehran, and that further stages of the withdrawal of troops from Iran should be considered at the meeting of the Council of Foreign Ministers to be held in London in September, 1945.

XV. THE INTERNATIONAL ZONE OF TANGIER

A proposal by the Soviet Government was examined and the following decisions were reached:

Having examined the question of the Zone of Tangier, the three Governments have agreed that this Zone, which includes the City of Tangier and the area adjacent to it, in view of its special strategic importance, shall remain international.

The question of Tangier will be discussed in the near future at a meeting in Paris of representatives of the Governments of the Union of Soviet Socialist Republics, the United States of America, the United Kingdom and France.

XVI. THE BLACK SEA STRAITS

The Three Governments recognized that the Convention concluded at Montreux should be revised as failing to meet present-day conditions.

It was agreed that as the next step the matter should be the subject of direct conversations between each of the three Governments and the Turkish Government.

XVII. INTERNATIONAL INLAND WATERWAYS

The Conference considered a proposal of the U.S. Delegation on this subject and agreed to refer it for consideration to the forthcoming meeting of the Council of Foreign Ministers in London.

XVIII. EUROPEAN INLAND TRANSPORT CONFERENCE

The British and U.S. Delegations to the Conference informed the Soviet Delegation of the desire of the British and U.S. Governments to reconvene the European Inland Transport Conference and stated that they would welcome assurance that the Soviet Government would participate in the work of the reconvened conference. The Soviet Government agreed that it would participate in this conference.

XIX. DIRECTIVES TO MILITARY COMMANDERS ON ALLIED CONTROL COUNCIL FOR GERMANY

The Three Governments agreed that each would send a directive to its representative on the Control Council for Germany informing him of all decisions of the Conference affecting matters within the scope of his duties.

XX. USE OF ALLIED PROPERTY FOR SATELLITE REPARATIONS OR "WAR TROPHIES"

The proposal Annex II presented by the United States Delegation was accepted in principle by the Conference, but the drafting of an agreement on the matter was left to be worked out through diplomatic channels.

XXI. MILITARY TALKS

During the Conference there were meetings between the Chiefs of Staff of the Three Governments on military matters of common interest.

ANNEX I

[Soviet Proposal]

TEXT OF A LETTER TRANSMITTED ON JULY 12 TO THE REPRESENTATIVES OF THE U.S. AND U.K. GOVERNMENTS ON THE ALLIED CONTROL COMMISSION IN HUNGARY

In view of the changed situation in connection with the termination of the war against Germany, the Soviet Government finds it necessary to establish the following order of work for the Allied Control Commission in Hungary.

1. During the period up to the conclusion of peace with Hungary the President or Vice-President of the ACC will regularly call conferences with the British and American representatives for the purpose of discussing the most important questions relating to the work of the ACC. The conferences will be called once in 10 days, or more frequently in case of need.

Directives of the ACC on questions of principle will be issued to the Hungarian authorities by the President of the Allied Control Commission after agreement on these directives with the English and American representatives.

2. The British and American representatives in the ACC will take part in general conferences of heads of divisions and delegates of the ACC, convoked by the President of the ACC, which meetings will be regular in nature. The British and American representatives will also participate personally or through their representatives in appropriate instances in mixed commissions created by the President of the ACC for questions connected with the execution by the ACC of its functions.

3. Free movement by the American and British representatives in the country will be permitted provided that the ACC is previously informed of the time and route of the journeys.

4. All questions connected with permission for the entrance and exit of members of the staff of the British and American representatives in Hungary will be decided on the spot by the President of the ACC within a time limit of not more than one week.

5. The bringing in and sending out by plane of mail, cargoes and dip-

ers will be carried out by the British and American representatives under arrangements and within time limits established by the ACC in special cases by previous coordination with the President of the

It is necessary to add to the above that in all other points the existing arrangements regarding the ACC in Hungary, which was confirmed on January 1, 1945, shall remain in force in the future.

ANNEX II

[United States Proposal]

PROPERTY FOR SATELLITE REPARATIONS OR "WAR TROPHIES"
The burden of reparation and "war trophies" should not fall on Allied

Equipment—We object to the removal of such Allied property as "war trophies", or under any other guise. Loss would accrue to the Allied nations as a result of destruction of plants and the consequent loss of trading connections. Seizure of Allied property makes impossible fulfillment by the satellite of its obligation under the armistice to protect the rights and interests of the Allied Nations and their nationals. The United States looks to the other occupying powers for the return of property already removed and the cessation of removals. Where property will not or cannot be returned, the U.S. will demand of the satellite effective and prompt compensation to American nationals. Such compensation have priority equal to that of the reparations

principles apply to all property wholly or substantially owned by the Allied nations. In the event of removals of property in which the American interest is less than substantial, the U.S. expects effective, and prompt compensation.

Production—While the U.S. does not oppose reparation out of the production of Allied investments, the satellite must provide immediate compensation to the Allied nationals including sufficient foreign currency and products so that they can recover reasonable foreign currency and transfer a reasonable return on their investment. Such compensation must also have equal priority with reparations.

It is essential that the satellites not conclude treaties, agreements or contracts which deny to Allied nationals access, on equal terms, to their materials and industry; and appropriately modify any existing laws which may have that effect.

August, 1945.

JOSEPH V. STALIN
HARRY TRUMAN
C. R. ATTLEE

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
13zd. Paper	Germany Task Force Paper: Stationing Rights and the SOFA [SENT FOR AGENCY REFERRAL] (5 pp.)	03/29/90	(b)(1)	S

Collection:

Record Group: Bush Presidential Records
Office: National Security Council
Series: Blackwill, Robert D.
Subseries: Subject File
WHORM Cat.:
File Location: [German Reunification 11/89-6/90] [2]

Date Closed: 9/15/2003	OA/ID Number: CF00182-021
FOIA/SYS Case #: 2001-1166-F	Appeal Case #:
Re-review Case #:	Appeal Disposition:
P-2/P-5 Review Case #:	Disposition Date:
AR Case #:	MR Case #:
AR Disposition:	MR Disposition:
AR Disposition Date:	MR Disposition Date:

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P-1 National Security Classified Information [(a)(1) of the PRA]
 P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
 P-3 Release would violate a Federal statute [(a)(3) of the PRA]
 P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
 P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
 P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

Freedom of Information Act - [5 U.S.C. 552(b)]

(b)(1) National security classified information [(b)(1) of the FOIA]
 (b)(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
 (b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
 (b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
 (b)(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
 (b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
 (b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
 (b)(9) Release would disclose geological or geophysical information

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
13ze. Paper	Re: West Germany and the USSR [SENT FOR AGENCY REFERRAL] (10 pp.)	04/04/90	(b)(1)	S

Collection:

Record Group: Bush Presidential Records
Office: National Security Council
Series: Blackwill, Robert D.
Subseries: Subject File
WHORM Cat.:
File Location: [German Reunification 11/89-6/90] [2]

Date Closed: 9/15/2003	OA/ID Number: CF00182-021
FOIA/SYS Case #: 2001-1166-F	Appeal Case #:
Re-review Case #:	Appeal Disposition:
P-2/P-5 Review Case #:	Disposition Date:
AR Case #:	MR Case #:
AR Disposition:	MR Disposition:
AR Disposition Date:	MR Disposition Date:

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P-1 National Security Classified Information [(a)(1) of the PRA]
 P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
 P-3 Release would violate a Federal statute [(a)(3) of the PRA]
 P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
 P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
 P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

Freedom of Information Act - [5 U.S.C. 552(b)]

(b)(1) National security classified information [(b)(1) of the FOIA]
 (b)(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
 (b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
 (b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
 (b)(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
 (b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
 (b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
 (b)(9) Release would disclose geological or geophysical information

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
13zf. Paper	Update on European Views of German Unification and the Two-plus-Four Dynamic [FOIA EXEMPTIONS REDACTED] (6 pp.)	4/4/90	(b)(1), (b)(3)	<i>e</i>

Collection:

Record Group: Bush Presidential Records
Office: National Security Council
Series: Blackwill, Robert D., Files
Subseries: Subject File
WHORM Cat.:
File Location: [German Reunification 11/89-6/90] [2]

Document Declassified
Copy of (Document Follows)
 By SS on 11/9/22

Date Closed: 9/15/2003	OA/ID Number: CF00182-021
FOIA/SYS Case #: 2001-1166-F	Appeal Case #:
Re-review Case #:	Appeal Disposition:
P-2/P-5 Review Case #:	Disposition Date:
AR Case #:	MR Case #: 2011-0800-MR(519)
AR Disposition:	MR Disposition: Released in Full
AR Disposition Date:	MR Disposition Date: 11/9/2022

RESTRICTION CODES

Freedom of Information Act (FOIA) - [5 U.S.C. 552(b)]

- (b)(1) National security classified information
- (b)(2) Release would disclose internal personnel rules and practices of an agency
- (b)(3) Release would violate a Federal statute
- (b)(4) Release would disclose trade secrets or confidential or financial information
- (b)(6) Release would constitute a clearly unwarranted invasion of personal privacy
- (b)(7) Release would disclose information compiled for law enforcement purposes
- (b)(8) Release would disclose information concerning the regulation of financial institutions
- (b)(9) Release would disclose geological or geophysical information concerning wells

Deed of Gift Restrictions

- C(1) Closed by Executive Order 13526, governing access to national security information
- C(2) Closed by statute or by the agency which originated the information
- C(3) Closed in accordance with restrictions contained in donor's deed of gift [formerly listed as only C]
- PRM. Removed as a personal record misfile

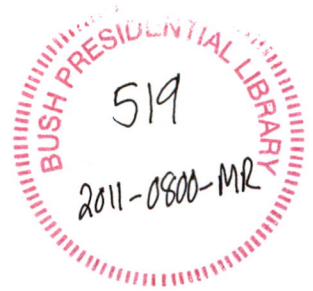
Presidential Records Act - [44 U.S.C. 2204(a)]

- P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]

~~CONFIDENTIAL~~

(b)(3)

Central Intelligence Agency



Washington D.C. 20505

DIRECTORATE OF INTELLIGENCE

4 April 1990

**Update on European Views of German Unification
and the Two-plus-Four Dynamic**

Summary

The strong plurality garnered by the CDU-led (conservative) Alliance for Germany in the 18 March East German election has strengthened Kohl's ability to set the pace of unity and deal with the Four Powers as well as with the smaller West European states. France and the UK had probably hoped that the East German SPD would do well enough in the election to take some of the wind out of Kohl's sails and slow down what they see as a rush toward German unity. They are now putting the best face on what is widely seen as a major victory for the Chancellor and appear resigned to unification under Article 23 over the next year or so. East Europeans, too, are hoping for a drawn-out unification process; the Poles, in particular, fear that accelerated unification would damage their interests, and they will maintain pressure on the Allies to protect Polish equities. Most Europeans will look to the United States to rein in the Germans if the pace picks up too much or if Kohl begins to veer away from his public commitment to the Alliance and his recognition of the Oder-Neisse border with Poland. (b)(3)

This typescript was prepared by the Office of European Analysis. Comments and queries are welcome and may be directed to the Chief, West European Division, EURA, (b)(3) (b)(3)

**DECLASSIFIED
PER E.O. 13526**

ISCAP Appeal 2016-015
SS 11/9/22

(b)(3)

~~CONFIDENTIAL~~

(b)(3)

~~CONFIDENTIAL~~

(b)(3)

The View from Bonn and Berlin

Christian Democratic dominance in both German capitals assures a concordance of views on many issues--particularly on the use of Article 23 as the vehicle of unification and the need to avoid drafting a new constitution. As a result, we expect unification to be complete within a year, perhaps much sooner. (See Annex) Although the East German Christian Democrats are less adamant than Kohl about keeping a united Germany in NATO, they will be unlikely to challenge him on the issue given Bonn's overwhelming political and economic leverage. (b)(3)

Intra-German accord on Article 23 and on NATO membership will strengthen Kohl's position in the Two-plus-Four talks. He can argue that the Germans have agreed among themselves on the path to unity and NATO membership for a united Germany. The Soviets will find it much harder to exploit intra-German differences on timing, NATO, and other issues than if the Social Democrats had won in East Germany.* French and British pleas to slow the pace of unity now would more clearly contradict the preference of East and West German voters. (b)(3)

At the same time, Bonn will continue efforts to placate West European concerns through conciliatory stands on EC and border issues. Kohl will call for speedy passage of the joint Bundestag-Volkskammer declaration abjuring territorial claims on Poland. His recent suggestion of a December conference on EC political union probably portends efforts to strengthen policy coordination with Paris on European issues, thereby underlining Bonn's EC credentials and assuaging French concerns about German obsession with unification. (b)(3)

British and French Perspectives

Paris and London probably hoped for a less clear-cut election result in East Germany that would have slowed unification. They must now come to terms with the East German voters' clear support for the Christian Democratic policy of relatively quick unification as well as with a strengthened Kohl. The French, in particular, are already softening the tone of their German policy and appear to be mending fences with Kohl. Paris and London may even find some benefits in accession through Article 23; hoping the process would take at least a year, they probably believe it would:

*The East German Social Democrats may demand the Foreign Ministry should they enter a grand coalition with the Christian Democrats--an office that might allow them to complicate intra-German talks on NATO. But the Christian Democrats will be in a strong bargaining position because--with their liberal allies--they will have an absolute majority in parliament even without the SPD. And while Social Democratic statements on NATO are vague, they seem to suggest acceptance of the Genscher Plan as long as eastern Germany's non-integration into NATO is firmly guaranteed. (b)(3)

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

(b)(3)

- Provide an orderly process for unification.
- Compel Moscow to come to terms with the likelihood of German membership in NATO and help minimize potential damage to East-West relations.
- Preserve the Allied voice in Two-plus-Four negotiations on the future of Allied rights and on the external aspects of unity.
- Allow Kohl to be more explicit in guaranteeing the Oder-Neisse line as Germany's eastern border.
- Provide more time to determine East German participation in the EC and to cushion the impact of this enlargement on EC integration and monetary union.
- Eventually increase French and British exports into East German markets. (b)(3)

Nevertheless, Paris and London worry that a rush to accomplish de facto unity over a period of weeks or a few months could create new problems or exacerbate existing ones. They seem to fear that rapid accession could:

- Undermine Gorbachev by strengthening his domestic critics, who might vilify him for handing Germany to the West.
- Destabilize East Germany's fragile economy, fostering greater emigration to West Germany or even violence in the GDR.
- Force a currency realignment or higher interest rates on other EMS members and possibly raise inflationary pressures.
- Commit the EC to funding too large a share of East German adjustment, diverting regional aid from other EC countries and seriously straining the EC budget. (b)(3)

Even if unification under Article 23 appeared to be moving too quickly for comfort, the UK and France probably would not try to stop it. They might, however, try to delay the process by acting together or in conjunction with Moscow on certain issues--but only if they became convinced that German leaders had become insensitive to European concerns about the form and pace of unification. They could:

- Harden their stand on issues where Four-Power rights are most explicit, such as intra-German aviation, the status of Berlin, or the withdrawal of Allied troops.
- Seek to revive public concerns about German commitment to EC integration and feed already widespread concerns about

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

(b)(3)

the potential negative impact of East German participation on Germany's EC partners.

- Pose obstacles to German interests in the EC and the G-7.
- Insist that no Two-plus-Four decisions be considered final without review by the 35-member Conference on Security and Cooperation in Europe. (b)(3)

Other West European Views

Other West Europeans generally share British and French worries that speeded-up unification will outpace the ability of West Germany's allies and EC partners to adjust to the accompanying security and economic complications. Public support for Germany's right to self-determination masks, in some cases, strong skepticism about Germany's willingness to look beyond its own inner-German interests; these doubts surface occasionally in statements reminding Bonn that unification moves must be acceptable to the EC, NATO and CSCE.

- Rome will probably use its impending presidency of the EC as a lever to gain greater access to the unification debate currently taking place in the Two-plus-Four forum. Italy probably believes that the clear-cut East German election results will help clarify the pace of unification and free Kohl to focus more on the European implications of his policies.
- The Benelux countries continue to fear that rapid unification will threaten EC integration. Belgian Prime Minister Martens recently urged accelerating integration, particularly on economic and monetary issues, to ensure Germany's commitment to the EC. (b)(3)

East European Responses

The GDR election convinced any remaining doubters in Eastern Europe that German unification is inevitable. The East Europeans hope that unification will be a managed process--the Czechoslovaks, for example, continue to believe that the process can be harnessed on behalf of European integration. (b)(3)

It is primarily the Poles whose level of concern has risen as a result of the East German election. Some two-thirds of Poles in a recent survey felt that unification will be disadvantageous to Poland. Warsaw would prefer a drawn-out process that would maximize the chances of satisfactory guarantees for Poland's security interests. Instead, the Poles now face the prospect of an accelerated unification in which their equities may get short shrift.

- Although Mazowiecki did gain Two-plus-Four agreement to Polish participation in talks bearing on the Oder-Neisse Line, he will continue to press for access to other discussions that he believes affect Poland's security.

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

(b)(3)

-- It is also unlikely that the Poles will get FRG and GDR initials on a treaty guaranteeing Poland's borders prior to unification. In an effort to put more pressure on Kohl, Mazowiecki is now upping the ante by calling for language in the revised Federal German constitution explicitly renouncing any territorial claims against Poland. (b)(3)

Poland will maintain pressure on the Allies to protect Polish interests, especially if political paralysis or economic collapse in the GDR accelerates the unification timetable even more. The remaining loose ends regarding territorial and security issues will strengthen Mazowiecki's resolve to tie complete Soviet troop withdrawal from Poland to resolution of the border question and a CFE accord, despite continuing anti-Soviet sentiment in the populace. (b)(3)

Implications for the United States

Britain and France suspect that the United States is still too interested in placating West German concerns and are likely to hold Washington accountable for any "concessions" that Bonn tries to give the Soviets over continued NATO membership. Both France and Britain, for example, will expect the United States to support their efforts to win a commitment from Kohl to maintain at least some nuclear weapons on German soil. Moreover, Paris and London will hope for US backing when they press Germany for some sort of formal peace settlement that would help meet Soviet concerns and reassure the Poles about German willingness to sign a treaty recognizing the Oder-Neisse line. If the French and British are driven to try to delay unity on their own or with the Soviets, they could attempt to portray the United States as standing alone with Germany in seeking quick unification at the expense of European stability. (b)(3)

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

(b)(3)

Annex A

The Unification Timetable

We expect unification to be complete within a year, and perhaps much sooner. East Germany as a whole, or reconstituted East German states, will accede to the Federal Republic under Article 23 of its Basic Law--a simpler and speedier procedure than drafting a new all-German constitution.

- The East German parliament is likely by this summer to declare its support for unification via Article 23.
- During a transition period of up to a year, the two German governments will work out key political, legal, and economic procedures for unification.
- An all-German parliament and government probably will be in place by mid-1991. (b)(3)

Bonn hopes to have Four-Power agreement on the external aspects of unification by the CSCE summit this fall. The West Germans probably will use their leverage with East Berlin to keep up the pace of unification and put the Four Powers under pressure to meet this target. (b)(3)

The unification timetable could change markedly in response to unforeseen developments. Economic collapse in the GDR, for example, would increase the odds of hasty accession to West Germany. Alternatively, new East-West tensions on issues like Lithuania conceivably could either torpedo the Two-plus-Four talks or prolong them beyond this fall. This would increase the risk of unification through a German fait accompli, perhaps in the form of an uncoordinated rush by individual East German states to accede to the FRG. (b)(3)

~~CONFIDENTIAL~~