

# Withdrawal/Redaction Sheet

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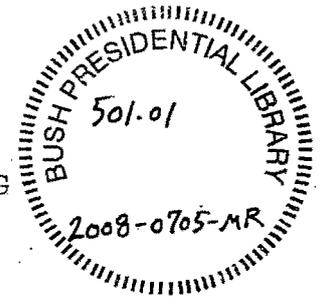
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Attachment #1

MEMORANDUM OF CONVERSATION

ONE-PLUS-THREE POLITICAL DIRECTORS' MEETING  
AUGUST 23, 1990  
LONDON



SUMMARY:

The One-plus-Three Political Directors met in London on August 23 to review the draft Western text of the Final Settlement, as well as the Soviet draft that had been presented to the FRG on August 17. FRG Political Director Kastrup brought the group up to date on his meetings with the Soviets, including a discussion with Kvitsinskiy of the unresolved attitude of the Soviets to a suspension of Four-Power rights upon unification. Kastrup discussed particular problems with the Soviet draft, especially the articles on only peace emanating from German territory and provisions desired by the Soviets with regard to Nazism, expropriations and the validity of GDR treaties.

The group reached consensus on the text of the draft article of the Settlement on the termination of Four-Power rights, on a draft declaration suspending Four-Power rights upon unification, and on a paragraph in the Preamble saying that Four-Power rights had fulfilled their purpose. The group also reached agreement on a draft letter to the UN Secretary-General on the termination of Four-Power rights, and on a letter from the UK Political Director to his colleagues concerning this issue.

The group reached agreement on revising the French draft text on borders closer to match the text agreed to by the Ministers in Paris, and attained consensus versions of the draft articles on ratification and entry-into-force.

The Political Directors considered German drafts on the articles concerning German commitments on NBC weapons, German troop reductions, and the future political-military status of GDR territory. After considerable discussion, tentative draft articles were agreed.

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The group reviewed various versions of the draft paragraph in the Preamble on CSCE, and agreed that the Germans would produce an additional draft. The structure and organization of the Settlement document was also discussed. It was agreed that the document should be entitled "Convention on the Final Settlement with Respect to Germany."

Discussion then turned to the issue of Allied troop stationing in Germany. The Germans indicated their desire to renegotiate the Presence Convention, the NATO SOFA and its Supplementary Agreement. The Germans also made it clear that "for political reasons" they did not wish to extend to SOFA or SA to Berlin and GDR territory. The Allies stated their preference for only a slight modification of the Presence Convention and the need to extend the SOFA and SA to Berlin and GDR territory -- or at least to extend their provisions. All agreed that there should be no legal vacuum for Allied troop stationing in either the FRG or Berlin upon unification. This clearly meant a new stationing agreement was needed for Berlin.

The Political Directors concluded by reviewing the results of the Berlin Working Group's deliberations on whether Allied law would lapse upon unification, and also what problems would arise if the Soviets refused to agree to the suspension of Four-Power rights upon unification.

END SUMMARY.

Draft: EUR/CE:AGoodman<sup>AK</sup>  
01/28/91 ext.72005 SECEEW2 #9

Clear: EUR:JDobbins<sup>10</sup>  
EUR:NLedsky<sup>11</sup>  
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NSC:RHutchings (info)

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Organization of the August 23 Meeting  
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1. The One-plus-Three Political Directors assembled in London on August 23 to review the draft articles for the Final Settlement that had been circulated among the Western participants in accordance with the division of labor agreed to at the July 19 Two-plus-Four meeting (borders -- France; termination of rights and Berlin -- UK and U.S.; ratification, entry-into-force, and political-military questions -- FRG). Acting Assistant Secretary Dobbins headed the U.S. delegation. Also attending for the U.S. were Ambassador Ledsky, NSC Rep Hutchings, Koblitz (L) and Goodman (EUR/CE - notetaker).

2. UK Political Director Weston, acting as chairman, proposed the following schedule: a review of developments by FRG Political Director Kastrup; discussion of the draft Western text; discussion of the draft Soviet text given to the FRG on August 17; and, finally, discussion of troop stationing issues.

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FRG Activities with the GDR and USSR  
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3. Kastrup began by stating that the Volkskammer had decided on October 3 as the date for accession to the FRG. He said this was an appropriate date as it would mean the Settlement would be finalized in Moscow and then presented to the CSCE member-states at the Foreign Ministers' meeting in New York on October 1-2, with unification immediately following. Kastrup said this sequence had been Genscher's goal all along. Dobbins asked if the date for accession was final and if there would be a state treaty signed to this effect between the FRG and GDR. Kastrup said the date was final and he thought it likely, but not certain, that there would be a state treaty.

4. Kastrup turned to his meeting with Kvitsinskiy the previous week in Moscow. He said bilateral issues had been discussed along with the Final Settlement, but no specific language for the Settlement had been discussed. Kastrup emphasized that he had not put forward any Western language that was not agreed. Kastrup said Kvitsinskiy had commented on the Soviet draft given to the FRG on August 17. Kastrup asked if the others had received the Soviet draft. None had. Dobbins asked if the draft had been in Russian or German. Kastrup said it had been in Russian, but the Germans had done a rough translation. Kastrup then distributed the German version to the others.

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5. Kastrup said he had discussed the suspension of Four-Power rights with Kvitsinskiy, but not in terms of specific language. Kastrup said the Soviets were not ready to accept the suspension proposal. He said Kvitsinskiy had made two arguments: (1) the Soviets were not sure they could do agree to suspension without consulting the Soviet Parliament, and (2) before considering a suspension, the Soviets wanted to see what happened [i.e., what was agreed] with regard to stationing of their troops and financing. Kastrup said the Germans did not press the Soviets further; the issue rested with Shevardnadze's remark to Genscher that they could return to it on September 12.

6. Kastrup said that, in terms of structure, the Soviets wanted a single, comprehensive document that settled all issues because inclusion of annexes might convey the impression that these were of an inferior legal status. The Soviets felt that when submitting the Settlement to the Supreme Soviet for ratification, they had to be able to say that all parts of the document had equal weight. Kastrup said the Soviets were very adamant on this and he was not sure they could be moved.

7. In particular, Kastrup said, the Soviets were concerned about this with regard to the issues the West wished to place in the take-note section -- ABC weapons, troop levels and the future political-military status of GDR territory. They were more open to discussion on the placement of the issues raised in Article 8 of their draft [on validity of Four-Power expropriations, Nazism, compensation for forced labor; validity of GDR treaties, war memorials and cemeteries]. Kastrup also reported that the Germans had presented the Soviets with the statement Genscher planned to make on August 30 with regard to troop levels.

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The Soviet Draft  
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8. Kastrup then reviewed the discussion the Germans had with the Soviets about the substance of the Soviet draft text [attached at Tab 3]. He said that Genscher had told the Soviets that their draft Article 2 [on only peace emanating from German territory and no military activity by third countries] was unacceptable. Genscher had said that the Germans were prepared to discuss putting language in the Preamble on only peace emanating from German soil, and a reference to Article 26 of the Basic Law could be made, but it would be discriminatory toward Germany to have the Soviet draft language in the operative part of the Settlement text.

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9. Kastrup reported that Soviet draft Article 8 [on expropriations, Nazism, etc.] had been discussed at length, but without a concrete result. Kastrup said that the Germans did not understand what the Soviets wanted with regard to the legitimization of Four-Power acts [expropriations, etc.]. He said the Germans could not bind their courts in this manner. They had to retain the possibility of compensation, for example, for Jews who had been dispossessed. Kastrup said the paragraph on compensation for forced labor was "totally unacceptable." He said the paragraphs on cemeteries and the validity of GDR treaties did not pose substantive problems, but the Germans thought these would be better put in a separate document. Only as a last resort should they be in the Settlement text itself.

10. Kastrup said the Germans had studied Soviet Article 5 on political-military issues and had re-drafted their own contribution to the Western text based on this and the comments received from the UK and U.S. Kastrup concluded his remarks by saying that it had become obvious that the Soviets wanted to complete the Settlement on September 12 and sign it in Moscow. Kastrup said the Germans were prepared to do this. Dobbins asked if the group could come back to the Soviet text later in the day. Weston proposed that the heads of delegation discuss it over lunch.

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Termination/Suspension of Rights  
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11. Weston began discussion of the composite Western draft text with the UK/U.S. contributions. He said the latest version of the article on termination of rights represented a revision based on Kastrup's comments [that had been communicated previously]:

Begin text:

(1) The Governments of the French Republic, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America hereby terminate their rights and responsibilities relating to Berlin and to Germany as a whole, and the corresponding, related quadripartite agreements, decisions and practices. As a result, all related Four-Power institutions are dissolved.

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(2) Germany shall have accordingly full sovereignty over its internal and external affairs.

End text.

12. The British had therefore made the language on suspension into a separate declaration:

Begin text:

The Governments of the French Republic, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America, having regard to the Convention on the Final Settlement with Respect to Germany signed today at (here insert place of signature), declare that the operation of their rights and responsibilities relating to Berlin and to Germany as a whole, and the corresponding, related quadripartite agreements, decisions and practices, shall be suspended upon the unification of Germany pending the entry into force of the Convention on the Final Settlement with Respect to Germany which provides for their termination.

For the Government of the French Republic:

For the Government of the Union of Soviet Socialist Republics:

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

For the Government of the United States of America:

End text.

13. Weston asked if all could agree on the draft article. Kastrup noted that the Soviets favored two articles: one for Berlin and one for Germany as a whole. Kastrup suggested contingency drafts be developed to do this. He said the Soviets wanted to be more specific and include more details on Berlin. The group agreed to the draft as it was, but decided to keep this in mind.

14. Weston asked if there was concurrence with the text of the draft declaration on suspension of Four-Power rights. Kastrup said the Soviets might want four separate declarations so they could reinstitute Four-Power rights unilaterally before their termination. Weston asked Kastrup to elaborate on this. Kastrup said that four separate declarations would give the Soviets the possibility to revoke theirs. Dobbins said this was a good reason not to agree to four separate declarations.

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15. Dobbins asked how firmly the FRG would press for a suspension. He said the U.S. thought the suspension was important -- that it should be a key element of the overall Settlement -- and would support the Germans. But making suspension a unilateral action would be dangerous. It would also make the ratification process more dangerous. For the UK, France and the FRG, ratification would be simple. The ratification was not predictable, however, for the U.S. and USSR. We did not want to leave an opening in the process. Dobbins said that if the Soviets received satisfaction on the substance of the Settlement, they would not hold to their position on suspension. He concluded by asking again how far the FRG wished to push on this issue.

16. Weston said from the UK perspective there had to be a new agreement on stationing of Western troops in Germany by October 3 or Four-Power rights would have to be retained. Kastrup said he agreed with the British draft language for the suspension declaration. He just wanted the group to bear in mind the Soviet position. Weston said the UK legal view was that there could be separate suspension declarations, but they would still be bound together. Dobbins said if all were certain this would be the case, such a course would be acceptable, but the U.S. was still uneasy about it.

17. Dufourcq said France agreed to the UK text, but asked what would happen if the Final Settlement was not ratified by the Soviets. He suggested adding a security clause to the text stating that if the Settlement had not been ratified after six months, then a meeting of the participants would be called. Weston said that if there was agreement with the Soviets to suspend Four-Power rights, but later the Soviets would not ratify the Settlement, then rights could be kept suspended. Weston said that rights could not be reasserted; this would be politically embarrassing to the Soviets if they tried to do so.

18. Dufourcq asked if Germany would ratify the Settlement at the end of the process. Kastrup said this was not the case. Christian Pauls of the FRG delegation pointed out that the Germans had only said they would ratify after December 2 because this was practical. Kastrup said that once there was a united German parliament on October 3, the Settlement could be presented for ratification. The process would then take eight to ten weeks.

19. Dobbins said that he agreed with the UK position regarding a failure by the Soviets to ratify. Once rights were suspended by agreement of the Four, then the West should refuse to have them reinstated. If the Soviets refused to ratify the Settlement, then they would not get the other benefits contained in the Settlement. Weston asked if the Germans wanted the suspension upon unification or at the signing of the Settlement. Kastrup said upon unification. Weston then asked and received agreement from all on the text of the suspension declaration.

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Preamble - Rights Fulfilling Their Purposes  
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20. Weston moved on to the draft addition to the Preamble proposed by the UK and U.S. on Four-Power rights having fulfilled their purposes:

Begin text:

Recognizing that, with the unification of Germany as a democratic and peaceful state and the conclusion of this Final Settlement, the rights and responsibilities of the Four Powers relating to Berlin and to Germany as a whole have fulfilled their purposes;

End text.

21. Kastrup asked for an explanation of the phrase "... have fulfilled their purposes." Dobbins said its logic was tied to the suspension of rights. Four-Power rights and responsibilities derived from certain purposes; if the purposes no longer existed, then there was no need for the rights. Dobbins added that he would prefer to delete the phrase "... and the conclusion of this Final Settlement" since even without ratification of the Settlement, Four-Power rights would be gone.

22. Kastrup said there was a certain patronizing ring to the paragraph. He said it implied that the Four had done things for forty years and now it was okay to let the Germans do them. Dufourcq asked if it would help to change the first word of the paragraph to "considering." Kastrup said it would not; the problem was the phrase "... have fulfilled their purposes." Pauls said it looked like the Soviet presence in Germany for 45 years had brought about peace.

23. Dobbins suggested the language could be changed to say that rights "... have no further basis." Kastrup asked what this would add. Dobbins responded that it would add an explicit statement that attempts to reassert Four-Power rights could not succeed. Weston suggested changing the phrase to rights "... fall away." Kastrup said he did not like the word "purposes." He suggested saying that rights "... have lost their basis." Dobbins offered "... no longer have a function." Weston suggested "... have no further function." Dobbins proposed "... have no further rationale." Kastrup suggested "... can be terminated." Weston suggested "... should be terminated." Kastrup offered "... have lost their function and should be terminated." This met with general agreement.

24. Dobbins asked about deleting the phrase "... and the conclusion of this Final Settlement." He was supported by Weston. Dufourcq queried the reason for the deletion. Dobbins said he did not wish to make the retention of rights subject to ratification, and it was not just a question of Soviet ratification. Weston asked if the Settlement would be submitted to the U.S. Senate for its advise and consent. Dobbins said we were leaning in this direction. Dufourcq said he had some doubts about deleting the phrase because it was the conclusion of the Final Settlement that meant rights were terminated. Weston reviewed the argument for deleting the phrase. All finally agreed to the deletion.

25. The agreed version of the paragraph read:

Begin text:

Recognizing that, with the unification of Germany as a democratic and peaceful state, the rights and responsibilities of the Four Powers relating to Berlin and to Germany as a whole have lost their function and should be terminated.

End text.

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Letter to UN Secretary-General  
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26. Weston turned to the UK draft Letter to the UN Secretary-General on the termination of Four-Power rights:

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Begin text:

I have the honour to refer to my predecessor's letter of 16 June 1973 addressed to the Secretary-General (S/10954) transmitting the text of a Declaration of the French Republic, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America, issued on 9 November 1972, and to inform you that, with the entry into force on . . . . of the Convention on the Final Settlement with Respect to Germany the rights and responsibilities of the Four Powers relating to Berlin and Germany as a whole, and the corresponding, related quadripartite agreements, decisions, and practices, have terminated.

I have the honour to request that this letter be circulated as an official document of the General Assembly and of the Security Council.

End text.

This was agreed without change.

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UK Letter to the Political Directors

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27. Weston circulated a revised draft of the UK's cover letter to the Political Directors about the various draft documents related to termination/suspension:

Begin text:

As we agreed in Bonn on 19 July I am circulating draft provisions concerning Four-Power rights and responsibilities. These consist of an Article formally terminating Four-Power rights and responsibilities; a Declaration to be signed together with the final settlement suspending quadripartite rights and responsibilities upon unification; additional preambular paragraphs for insertion at the end of the draft preamble discussed at our meeting on 19 July; and a draft letter to the Secretary General of the United Nations.

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You will note that these texts cover both Berlin and Germany as a whole. The language of the draft Article and Declaration is based closely on the Declaration issued by the Four Powers on 9 November 1972. It is intended to be comprehensive, and to cover any quadripartite agreements, arrangements, decisions and practices (by whatever name they are known and whatever form they may take) that may subsist, and any Four-Power institutions that may continue in being. Thus, among the agreements, decisions and practices referred to are the London Protocol of 12 September 1944, the agreement of 14 November 1944 on control machinery, the Declaration on Berlin of 5 June 1945, the Potsdam Agreement of 2 August 1945, the various agreements, arrangements and practices relating to access to Berlin, the Quadripartite Agreement of 3 September 1971, and the Quadripartite Declaration of 9 November 1972. Among the institutions referred to are the Allied Control Council, the Allied Kommandatura Berlin, the Berlin Air Safety Center and all subordinate and related institutions.

The Declaration is intended to meet the political desirability that Germany should be seen to be sovereign from the moment of unification and to reconcile this with the legal requirement of ratification or acceptance. Suspension of the operation of Four-Power rights and responsibilities would mean that they no longer have effect (and as a result Four-Power institutions would no longer operate), but the formal termination of quadripartite rights and responsibilities would only take place following ratification or acceptance of the settlement. This proposal for suspension assumes that any necessary instruments to replace Four-Power rights and responsibilities will be in place at unification.

End text.

28. Weston said the word "decisions" should be added to the phrase concerning the various agreements on access to Berlin to make it read "... various agreements, arrangements, decisions and practices relating to access to Berlin." This was agreed. Dobbins asked if the last sentence [on legal instruments being in place at unification to allow ongoing Four-Power activities] was necessary. Weston said the UK was working on the assumption that a legal basis for Allied activities in Germany following suspension would exist. Dobbins said this was not the case with the Soviets and should not be suggested to them. Weston agreed this might give the Soviets a lever. Dufourcq also thought so. Weston agreed to delete the sentence, but noted there would have to be a new basis in place or there would be a legal vacuum. With these changes, the letter was agreed.

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Borders  
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29. The group next discussed the French draft article on borders:

Begin Text:

(1) The united Germany comprises the territories of the Federal Republic of Germany, the Democratic Republic of Germany and all Berlin. Its borders are the external borders of the German Democratic Republic and the Federal Republic of Germany on the date of the signature of the present settlement. These borders will become definitive on the date the present settlement enters into force. Confirmation of the definitive nature of the united Germany's borders is a fundamental contribution to peace in Europe.

(2) The united Germany and the Republic of Poland will confirm the border between them in a treaty having binding force by virtue of international law.

(3) The Federal Republic and the Democratic Republic declare that the United Germany will have no territorial claim against other states nor will it make any such claim in the future.

(4) The Federal Republic of Germany and the German Democratic Republic declare that they will ensure that the Constitution of the united Germany contains no provision that is incompatible with these principles. This holds true, in consequence, for the provisions set forth in the preamble, article 23 sentence 2, and for article 146 of the Basic Law of the Federal Republic of Germany.

(5) The governments of France, the United Kingdom of Great Britain and Northern Ireland, the United States of America and the Union of Soviet Socialist Republics take due note of the promises made by the Federal Republic of Germany and the German Democratic Republic to ensure that the united Germany will make no territorial claim and that the future Constitution of the united Germany will conform to the provisions of the present definitive settlement.

(6) For the purposes of the present accord, with the unification of Germany, the expression "Federal Republic of Germany" and "German Democratic Republic" (appearing in articles.....) shall be understood as being "the united Germany."

End text.

30. Dufourcq said the draft was very close to what the Ministers had agreed at the Paris Ministerial on July 17. He offered to make changes, though, if this was desired. Kastrup said the German view of paragraph six was that the two German states would make commitments, then one German state would ratify the Settlement and make them binding. Kastrup said this meant the sixth point in the French draft was superfluous.

31. After informal discussion among the delegations, Weston said he agreed that paragraph six was not exactly germane. He thought that the very same language agreed by the Ministers should be used as the article, or else different language should be used. Weston said that the French and Soviet position had been to include in the Settlement the five points from the agreed paper on borders; the other participants differed on this. Dobbins said the U.S. did not feel strongly about the issue. He suggested the closer the draft article was to the agreed language, the better it would be.

32. Weston noted that there were variations in the French draft from the five points of the border paper, which read:

Begin text:

(1) A united Germany will comprise the territory of the Federal Republic of Germany, the German Democratic Republic and the whole of Berlin. Its external frontiers will be the frontiers of the German Democratic Republic and the Federal Republic of Germany, definitive the day the final settlement comes into force. The confirmation of the definitive character of Germany's borders represents an important contribution to the peace order in Europe.

(2) A united Germany and the Republic of Poland confirm the border which exists between them and do so in a treaty that is binding under international law.

(3) A united Germany has no territorial claims whatsoever against other countries and will not assert any in the future.

(4) The Governments of the Federal Republic of Germany and the German Democratic Republic will ensure that the constitution of a united Germany does not contain any provision incompatible with these principles. This applies accordingly to the provisions laid down in the preamble, Article 23 sentence 2 and Article 146 of the Basic Law of the Federal Republic of Germany.

(5) The Governments of the USSR, the USA, the UK and France take formal note of the corresponding commitments and declarations by the Governments of the Federal Republic of Germany and the German Democratic Republic; and state that with their implementation the definitive character of Germany's borders will have been confirmed.

End text.

33. Weston asked which was the group's choice. Dufourcq said he wanted the borders paper. Kastrup said he had some problems with the borders paper, in particular the phrase in point 5 on "corresponding commitments." Kastrup said, however, he would accept this on his own risk. Weston said the UK had a preference for a different approach to the issue, but would accept the agreed paper on borders as the text. It was then agreed by all to replace the French draft with the exact wording from the agreed paper on borders approved by the Ministers in Paris on June 17. It was agreed to discuss the issue raised by point 6 of the French draft in connection with the clauses on ratification [drafted by the Germans].

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Ratification/Entry-Into-Force  
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34. The group moved on to consider the German draft for the final clauses of the Settlement on ratification, entry into force, depositary, etc.:

Begin text:

Article ...

This Convention is subject to ratification or acceptance in the shortest possible time. On the German side it will be ratified by the united Germany.

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The instruments of ratification or acceptance shall be deposited as soon as possible with the Government of the united Germany, which shall inform the Governments of the other High Contracting Parties of the deposit of each instrument of ratification or acceptance.

Article ...

This Convention shall enter into force on the date of deposit of the last instrument of ratification or acceptance.

Article ...

The original of the present Convention, the English, French, German and Russian texts of which are equally authentic, shall be deposited with the Government of the Federal Republic of Germany, which shall transmit certified true copies to the Governments of the other High Contracting Parties.

~~IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.~~

End text.

35. Weston queried the use of the phrase "in the shortest possible time" in the [first] article on ratification. Dobbins saw no problem with this. The phrase was left as it was. Dufourcq wanted the words "this convention" in the [first] article on ratification changed to "the present convention." This was agreed. Dufourcq also wanted the phrase "by their respective Governments" deleted from the [third] article on deposit, authenticity and signing. This was also agreed.

36. Kastrup proposed adding a sentence to the [first] article stating that "the commitments contained in this convention will therefore become binding for the united Germany." Weston suggested instead looking at the [second] article on entry into force and stating that "this convention shall enter into force for [the names of] the five governments." Dufourcq said he preferred Kastrup's proposal. After informal discussion among the delegations, Kastrup suggested a slightly modified version of his previous proposal: "the commitments contained in the present convention will therefore bind the united Germany."

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37. Weston said he was surprised Kastrup was willing to do so after the earlier discussion related to this on the Preamble. Kastrup said he did not need to add the sentence, but just wanted to please the French. All then agreed to add the sentence to the first paragraph of the [first] article on ratification.

38. Kastrup suggested the words "Federal Republic of Germany" in the [third] article on deposit and authenticity should be changed to "the united Germany." Weston pointed out that the text would be deposited with the FRG first; the united Germany would not exist until afterwards. Kastrup agreed to leave the language as it was.

39. Weston said it would be correct to add the names of the five states to the [second] article on entry into force. He also suggested the phrase "... last instrument of ratification" be changed to "... fifth instrument of ratification." Weston advocated this because, while six states would conclude the Settlement, only five would ratify it. Kastrup agreed to this phrasing. He asked what it would replace. Weston said it would be an addition on its own. After further discussion, the group agreed to a slightly modified version of Weston's proposal that retained the phrase "... last instrument of ratification."

40. At the conclusion of the discussion, the draft articles read as follows:

Begin text:

Article ...

The present Convention is subject to ratification or acceptance in the shortest possible time. On the German side it will be ratified by the united Germany. The commitments contained in the present convention will therefore bind the united Germany.

The instruments of ratification or acceptance shall be deposited as soon as possible with the Government of the united Germany, which shall inform the Governments of the other High Contracting Parties of the deposit of each instrument of ratification or acceptance.

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Article ...

This Convention shall enter into force for the French Republic, the Union of Soviet Socialist Republics, the United States of America, the United Kingdom of Great Britain and Northern Ireland, and the united Germany on the date of deposit of the last instrument of ratification or acceptance by these States.

Article ...

The original of the present Convention, the English, French, German and Russian texts of which are equally authentic, shall be deposited with the Government of the Federal Republic of Germany, which shall transmit certified true copies to the Governments of the other High Contracting Parties.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto, have signed the present Convention.

End text.

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Pol-Mil Take-Note Section - ABC Commitments

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41. Kastrup distributed copies of the German draft for the language on ABC weapons, stating that Genscher had delivered the statement in Geneva on August 22:

Begin text:

The Governments of the Federal Republic of Germany and the German Democratic Republic reaffirm their contractual and unilateral undertakings not to manufacture, possess or have control over nuclear, biological and chemical weapons. They declare that the united Germany, too, will abide by this obligation.

Rights and obligations under the instruments of the Treaty of 1 July 1968 on the Non-Proliferation of Nuclear Weapons will continue to apply to the united Germany. The united Germany will seek the continued validity of the Non-Proliferation Treaty beyond 1995 and supports the strengthening of the non-proliferation regime.

~~SECRET~~

At the Geneva Conference on Disarmament, the united Germany will strive for a comprehensive, worldwide and verifiable ban on chemical weapons at the earliest possible date and intends to be one of the original signatories of the convention.

End text.

42. Weston said the words "this obligation" at the end of the first paragraph should be changed to "these obligations." This was agreed. With regard to the second paragraph, Weston noted that there were other treaties which would apply to the united Germany in this connection. He suggested changing the wording of the first sentence of the paragraph to "rights and obligations under the instruments of the relevant treaties including ...."

43. Kastrup responded that the statement had already been issued and could not be changed. He said the question was whether it was enough for the Two-plus-Four Settlement or not. Kastrup urged the others to look at the Soviet draft article on this subject. He said the Soviets were not asking for more and would be satisfied with Genscher's statement. Kastrup said that if the Soviets were satisfied, then the Allies should be as well.

44. Dufourcq asked about inclusion of a reference to the WEU. Kastrup said the language had been phrased to cover all agreements. He said it was German language and their commitment. He again asked the others not to request changes. Weston suggested adding the words "in particular" to the first sentence of the second paragraph to make it read "rights and obligations in particular under the instruments ..." of the NPT to indicate that there were other relevant agreements. Kastrup queried whether Weston was going to ask more than the Soviets. He said this was a problem.

45. Weston said the discussion risked becoming acrimonious. He asked Kastrup not to make such statements again. Weston said that just because the Soviets had accepted something, this did not make it acceptable for the UK. Weston said he thought the issue was a procedural one. Dobbins said it was not procedural, but substantive. He asked why the Allies should care more about this question than the Soviets. Kastrup asked what the problem was from the UK's perspective. Weston said the UK objected to the second sentence in the second paragraph and all of the third paragraph. Kastrup said, at his own personal risk, he would agree to delete these.

46. The revised, agreed text read as follows:

Begin text:

The Governments of the Federal Republic of Germany and the German Democratic Republic reaffirm their contractual and unilateral undertakings not to manufacture, possess or have control over nuclear, biological and chemical weapons. They declare that the united Germany, too, will abide by these obligations.

Rights and obligations under the instruments of the Treaty of 1 July 1968 on the Non-Proliferation of Nuclear Weapons will continue to apply to the united Germany.

End text.

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Pol-Mil Status of GDR  
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47. ~~Kastrup next distributed a new German draft on the future political-military status of present GDR territory and Berlin:~~

Begin text:

Transitional politico-military arrangements for the territory of the present German Democratic Republic and Berlin

(1) The united Germany and the Union of Soviet Socialist Republics shall agree by treaty on the conditions and duration of the presence of Soviet forces in the territory of the present German Democratic Republic and in Berlin, and on the modalities for their withdrawal, including the removal of equipment and stocks, within a period of three to four years after the establishment of German unity.

(2) Until the conclusion of the withdrawal of the Soviet forces from the territory of the present German Democratic Republic and from Berlin, only territorial defense units of the Federal Armed Forces shall be stationed in that territory as forces of the united Germany which are not integrated into the alliance structures to which German forces in the remaining German territory are assigned. This shall not affect rights and obligations of the united Germany arising from membership of an alliance.

~~SECRET~~

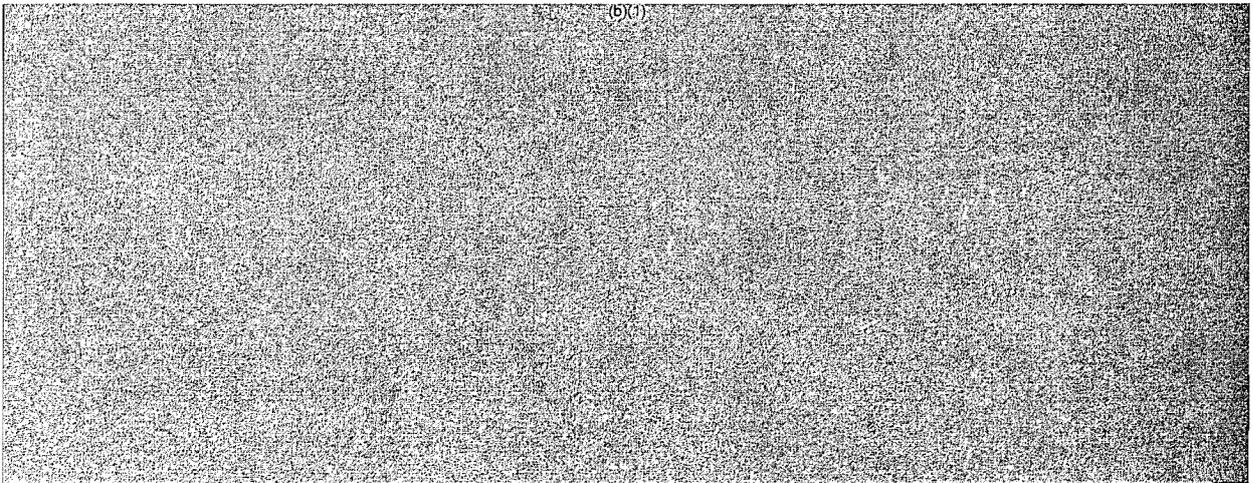
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(3) Forces of the French Republic, the United States of America and the United Kingdom of Great Britain and Northern Ireland shall remain stationed in Berlin on the basis of agreements to this effect between the Government of the united Germany and the Powers concerned for the duration of the presence of Soviet forces in the territory of the present German Democratic Republic and in Berlin, and their number and equipment shall not be greater than at the time of the signing of this final international settlement.

(4) Forces of the French Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America in the territory of the united Germany shall not cross a line which shall correspond to the present intra-German border between the Federal Republic of Germany and the German Democratic Republic except for movements of the forces named under 3 above to and from Berlin. Soviet forces also shall not cross this line.

(5) After the conclusion of the withdrawal of the Soviet forces from the territory of the present German Democratic Republic and from Berlin, German forces may also be stationed in this part of Germany who are assigned to military alliance structures in the same way as those in the rest of German territory, except that they shall have no delivery means intended for nuclear weapons. Foreign forces and nuclear weapons or delivery means intended for nuclear weapons shall not be stationed in that part of Germany.

End text.



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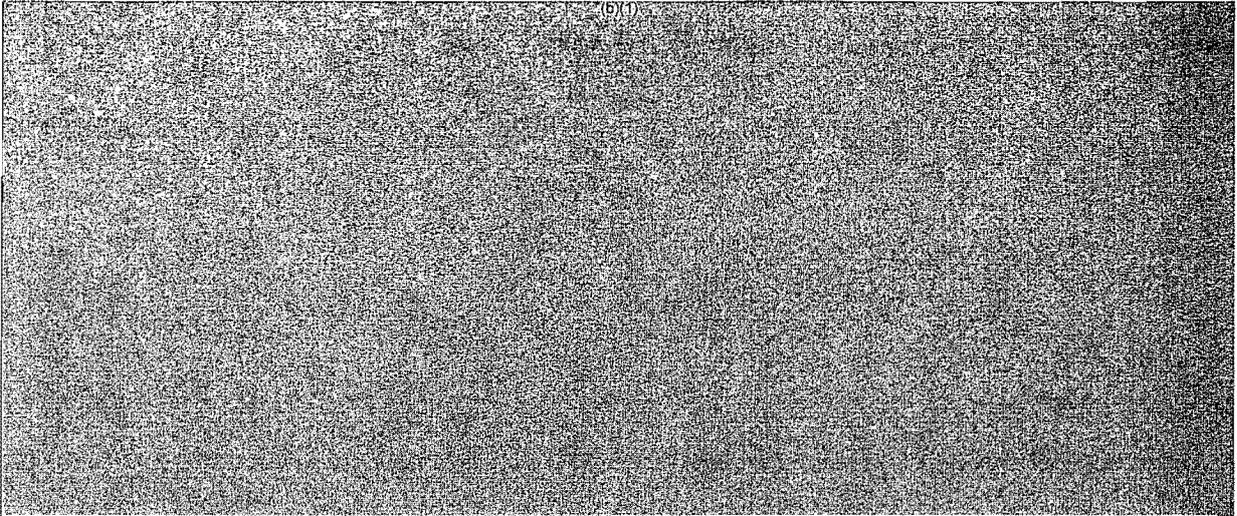
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67. With all the agreed changes, the revised draft read:

Begin text:

(1) The Government of the united Germany and the Government of the Union of Soviet Socialist Republics will conclude a treaty on the conditions and duration of the presence of Soviet forces in the territory of the present German Democratic Republic and in Berlin, and on the modalities for their withdrawal including the removal of equipment and stocks, within a period of three to four years after the establishment of German unity.

Until the conclusion of the withdrawal of the Soviet forces from the territory of the present German Democratic Republic and from Berlin pursuant to the aforementioned agreement, only territorial defense units of the Federal Armed Forces will be stationed in that territory as forces of the united Germany which are not integrated into the alliance structures to which German forces in the remaining German territory are assigned.

Forces of the French Republic, the United States of America and the United Kingdom of Great Britain and Northern Ireland upon German request will remain stationed in Berlin by agreement to this effect between the Government of the united Germany and the Powers concerned for the duration of the presence of Soviet forces in the territory of the present German Democratic Republic and in Berlin. The number and equipment of all non-German forces stationed in Berlin will not be greater than at the time of the signing of this final international settlement. These undertakings will not affect rights and obligations of the united Germany arising from membership of an alliance.

(2) After the conclusion of the withdrawal of the Soviet forces from the territory of the present German Democratic Republic and from Berlin, German forces may also be stationed in this part of Germany who are assigned to military alliance structures in the same way as those in the rest of the German territory, except that they will have no delivery means intended for nuclear weapons. Foreign forces and nuclear weapons or delivery means intended for nuclear weapons will not be stationed in that part of Germany. These undertakings will not affect rights and obligations of the united Germany arising from membership of an alliance.

End text.

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German Troop Levels  
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68. Over lunch, the Political Directors discussed the German draft statement on future German troop levels:

Begin text:

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The Government of the Federal Republic of Germany undertakes to reduce the personnel strength of the armed forces of the united Germany to 370,000 (ground, air and naval forces) within three to four years. The reduction will commence on the entry into force of the first CFE agreement.

Within the scope of this overall ceiling no more than 345,000 will belong to the ground and air forces which, pursuant to the agreed mandate, are exclusively the subject of the Negotiations on Conventional Armed Forces in Europe.

The Federal Government regards this commitment as a significant German contribution to the reduction of conventional forces in Europe. It assumes that in follow-on negotiations the other participants in the negotiations, too, will render their contribution to reductions in Europe.

End text.

69. Dobbins said the 370,000 figure should be divorced as much as possible from CFE. He suggested that the reference to CFE in the first paragraph be moved to the end of the second paragraph. Kastrup said he understood the point, that CFE results should not be prejudged, but stressed that this was the key sentence of the entire draft.

~~SECRET~~

-27-

70. Weston shared Dobbins' view. He proposed adding a phrase to the first sentence of the third paragraph specifying that the FRG viewed this commitment "as regards to air and ground forces" to be an important contribution. Kastrup said he understood the purpose of the proposal and agreed. Dobbins proposed the sentence read, "the Federal Government regards its commitment to reduce its ground and air forces as a significant contribution." This was accepted, though Kastrup added the proviso that he would have to check with the FRG's "experts."

71. Based on comments from Dufourcq and Dobbins, Kastrup also agreed to revise the second sentence of the paragraph to say that the FRG assumed other countries would render their contributions to "enhancing security and stability in Europe, including measures to limit personnel strength there." The draft was then agreed with a revised third paragraph as follows:

Begin text:

The Federal Government regards its commitment to reduce its ground and air forces as a significant German contribution to the reduction of conventional forces in Europe. It assumes ~~that in follow-on negotiations the other participants in the negotiations, too, will render their contribution to enhancing security and stability in Europe, including measures to limit personnel strength there.~~

End text.

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Structure of the Settlement Document  
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72. Weston turned to the question of how the three FRG drafts fit into the Final Settlement document. Dobbins said the U.S. position was that so long as they were handled in a way that showed they were unilateral German commitments, it did not matter whether they appeared as annexes or in the main document. Kastrup said that the Soviets were adamantly opposed to annexes, because they did not want any document to have inferior legal status. It was agreed that the texts should appear as part of the document rather than as annexes. Dobbins noted that for tactical reasons it might be better to defer Western agreement until later in the negotiations. All agreed that Kastrup would work on the precise way of introducing the texts as German declarations, which the Four Powers would "take note of."

~~SECRET~~

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Pol-Mil Status of GDR - Reprise  
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(b)(1)

74. Kastrup also suggested that the sentence on German rights and obligations as member of an alliance should be placed as a separate paragraph at the end of the article. Kastrup recommended this because of the objections he had heard concerning the application of NATO Articles 5 and 6. Kastrup rejected, however, the idea of having an explicit reference to Articles 5 and 6 in the text because of Soviet objections. The others agreed to move the sentence on alliance obligations to the end of the article.

(b)(1)

76. Dobbins asked why the Soviets were not satisfied with the agreement reached at Stavropol. Maintaining that Kastrup had been wrong in saying the matter had not been discussed at Stavropol, Dobbins said in effect it had. Chancellor Kohl, Dobbins argued, had said at Stavropol that the limitation was on the "stationing of foreign troops." Kastrup responded that the discussants at Stavropol had had maneuvers in mind as well, and that Kvitsinskiy had said so. Kastrup said again that, as a tactical matter, he would circulate the draft without paragraph 4. He noted, however, that there was no agreement among the One-plus-Three on this issue. Dobbins asked whether agreement could not be reached on a going-in position. Kastrup replied in the negative.

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Circulating the Western Draft

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77. Weston turned to the procedures for circulating the Western draft. It was agreed that each of the articles would be given the Soviets by the respective drafter, rather than as a composite whole, and that translation would be the responsibility of the recipient. As to the Soviet draft, it was agreed that French Foreign Minister Dumas [who would be traveling to Moscow in the next few days] would tell Shevardnadze that the Allies had heard about and received copies of the Soviet draft from the Germans, but wondered when the draft would be circulated formally. After a brief discussion of whether to table the Western draft only or to table both the Western and Soviet drafts at the September 4 meeting in Berlin, it was agreed that the FRG would prepare a document with the agreed Western text on one side and the corresponding elements of the Soviet text on the other.

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Soviet Article 8 - Expropriations, Nazism, Etc.

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78. Discussion returned to the Soviet draft, beginning with paragraph 8 on the validity of Four-Power Occupation acts, compensation for slave labor, Nazism, war memorials, and the validity of GDR treaties. Dobbins said the U.S. had problems with the first subparagraph on the legitimacy of Occupation era actions, because of claims by U.S. citizens that dated from 1945-1949, and because its second sentence seemed to be saying that things done in the Stalin era could no longer be judged. Kastrup agreed on both points. Kastrup also stated German opposition to the second subparagraph dealing with forced labor.

79. With regard to the remainder of paragraph 8 on Nazism, war memorials and GDR treaties, Kastrup presented his "personal idea" that, as a last resort, the FRG could agree to make separate statements on these. The first could say that the United Germany would respect the graves of soldiers and prisoners of war, as well as monuments devoted to victims of the war. Another might pledge that the constitution of the united Germany would "guarantee the continued existence of a free, democratic order" and would be "the basis for the banning of parties with national socialist aims." The third might oblige the united Germany to "discuss the International Treaties entered into by the GDR with the parties to those treaties to consider continuation, adjustment, or termination."

80. Kastrup said that these three statements would not be in the Settlement itself but might be issued as protocols or part of the negotiating record and could be published together with the Settlement. Dobbins said the U.S. would not push this. He encouraged Kastrup to cast the statements in a positive sense, alluding to the freedoms and democratic rights the FRG enjoys.

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Preamble - Para on CSCE  
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81. Dobbins then proposed the group re-examine the Soviet revision of the French draft language for the paragraph in the Preamble on CSCE. Dobbins recited U.S. objections to language on the "transformation of alliances," the use of the term "disarmament" instead of "arms control," and the phrasing on "pan-European security structures," and "institutionalization of the CSCE process." Dobbins argued the last would be better rendered as "creation of new institutions within the CSCE framework." It was agreed that the FRG would work from the French draft language to produce a new version.

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Title  
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82. A discussion of the title of the Settlement document followed. There was some back-and-forth as to whether the agreement should be "with" or "for" Germany. Various alternatives were put forward, including "Final Settlement," "Convention on Germany," and "Convention on the Final Settlement for Germany." Finally, it was agreed that the document should be entitled "Convention on the Final Settlement with Respect to Germany."

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The Soviet Draft - Reprise  
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83. The group returned to the Soviet draft text. Kastrup repeated that the Germans had rejected article 2 as written [on only peace emanating from German territory] on the grounds that it was discriminatory, but that the Germans were prepared to put language couched in positive terms in the Preamble. Dobbins and Weston agreed that the text as written was discriminatory and had to be revised. Dobbins said the U.S. would oppose any language that might appear to limit the use of our forces and facilities in Germany.

84. With regard to Soviet draft article 3 [on German commitments on NBC weapons], Kastrup objected to the part of the take-note phrase stating that the Four Powers "approved" the German reaffirmation. Kastrup said this should be deleted from the sentence, which should just state that the Four "take note" of the German statement. The others concurred with this.

85. With regard to Soviet draft article 5 [on the political-military status of the GDR and Berlin], all agreed that the second half was both obscure and unacceptable. All rejected the language which seemed to perpetuate Four Power Rights.

86. With regard to Soviet draft article 6 [on not crossing the line and on military liaison missions], it was agreed that the FRG would draft language for the September 4 meeting to address the Soviet concern on liaison missions. Specifically, the Germans said they would propose as an alternative that trilateral agreements be concluded between the Germans, the Soviets and each Stationing State to maintain a modified form of liaison mission, without the special status or intelligence-gathering aspects of the current MLMs. Dobbins, Weston and DuFourcq all said they would support this.

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Allied Troop Stationing in the FRG

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87. After lunch, Weston initiated discussion of the legal basis for the stationing of Allied troops in Germany upon the termination of Four-Power rights. Weston said this meant looking at the language of the Presence Convention, in particular Article 3.1, which stated that it would expire with "the conclusion of a German peace settlement or if at an earlier time the Signatory States agree that the development of the international situation justifies new arrangements." Weston added that the UK wanted to ensure there was no legal vacuum with regard to stationing.

88. Kastrup said the Germans saw a "political need" to discuss the existing SOFA with the Allies. In response to Dobbins' question, Kastrup said he was not sure of the difference between the Presence Convention and the SOFA in connection with the stationing issue. Weston said the UK thought that the parties could rely on Article 3.1 of the Presence Convention to provide some breathing space on the stationing issue. He asked if the Germans wanted to make a minor adjustment to it or if they wanted a new agreement.

89. Kastrup said he was not familiar with the legal details, but the German assumption was that there should be no legal vacuum at the moment of unification. Kastrup repeated that Bonn felt a political need to enter talks with the Allies about modifying the legal basis of their troop presence. He said a decision had been taken at a high level to postpone such talks until after the December 2 election for political reasons. But then the Germans would want negotiations on the SOFA.

90. Weston asked if Kastrup really meant the Germans wanted to enter talks about the SOFA then. Following an affirmative response from Kastrup, Weston pointed out that the issue of the Presence Convention was different from the SOFA. The Presence Convention provided the broad overview for the troop presence, while the SOFA and the Supplementary Agreement provided for the troops' status. Weston asked if the group could agree that Article 3.1 of the Presence Convention would remain in force until the entry into force of the Final Settlement. The choices, Weston said, were that the Presence Convention was still suitable, or needed minor amendment, or needed to be redrafted fully. Kastrup said he had to check with Bonn.

91. Dobbins agreed with Weston that Kastrup appeared to be merging the issues of stationing and status, whereas the two were analytically distinct. Dobbins said the Presence Convention simply dealt with the right to station and should be examined as such. He suggested it could be possible to interpret the language of the Presence Convention in such a way so that it would not be viewed as expiring with the Final Settlement since this was not a "peace settlement." This was in line with the FRG position was that there would be no "peace settlement" and would be similar to the situation that existed with regard to the London Debt Agreement. Dobbins argued that if such an interpretation were not sustainable, the next best option would be simply to amend the Presence Convention, giving it a new termination clause, rather than negotiate a new agreement.

92. Dufourcq said the French thought there was a change in the political situation. With the termination of Quadripartite rights and responsibilities, the French saw a need for a new agreement to provide a basis for an Allied troop presence. On an interim basis, Dufourcq said, the French could live with the Presence Convention if its language was changed. Dobbins asked where the French wanted a change. Dufourcq cited, as an example, the section on the objectives of the troop presence, including "the need to ensure the defense of the free world."

93. Dobbins saw no reason to change this. He added that the other signatories to the Presence Convention wanted to keep it as it was -- unless there was a clear reason to change it. Weston said he was not sure he could agree with Dobbins' reading of Article 3.1. The UK, Weston said, thought the Presence Convention could be terminated by the Final Settlement. Dobbins said he did not necessarily disagree with Weston on this point, but his view was that the language in Article 3.1 was clear in terms of preventing any unilateral change of the agreement.

94. Weston said that while there would never be a "peace settlement" as referred to in the Presence Convention, there also would not be anything more along these lines than the Final Settlement. Weston thought that if the group could agree that the Presence Convention would continue to be valid at least until the entry into force of the Final Settlement, they would be on sure ground. The Presence Convention could then still be used upon unification as the basis for stationing. Weston said to Kastrup that the UK did not want to push on this issue, but all the Allies felt the issue was important, and felt that the Presence Convention could provide the legal basis for continued stationing of Allied troops.

95. Kastrup said again he was not familiar with the legal details, but he knew the FRG's political line, which was to find a new legal contractual basis for Allied troop stationing in Berlin, but leave the legal basis for troop stationing in the FRG as it was until after the December 2 elections when adjustments should be taken up. Dufourcq asked if this meant that the FRG might be able to agree that the Presence Convention could apply even after the entry into force of the Final Settlement. Kastrup said he could not answer this, but the FRG position was that until negotiations started on new arrangements, the old ones were applicable. This meant a legal understanding was needed as to whether Article 3.1 still applied.

96. Dobbins said Article 3.1 was ambiguous. The group could decide that legally it did not apply, or that legally it did but politically did not apply, or that legally and politically it did apply. If the group decided in favor of either the first or second cases, then they needed to amend Article 3.1. This would be easier than working out a new agreement now and then a second new agreement next year after the Final Settlement entered into force.

97. Kastrup said the FRG agreed that until after December 2 election, the existing situation should continue as far as stationing in the FRG was concerned. Like the others, the FRG wanted to avoid any legal vacuum at unification. This meant agreement was needed as to whether the Presence Convention would expire at unification or if an amendment was needed to cover this. If the decision was taken that the Presence Convention did not expire upon unification, this was fine with the FRG. However, the FRG wished to pursue the revision of the Presence Convention once the December 2 election had passed.

98. Weston said he understood the stationing issue would be discussed in detail at an August 29 meeting of the four in Bonn, adding that the UK Ambassador to the FRG had already asked for guidance. In response to Kastrup's request for a preview of the UK position, Weston said the UK wished to rely on an extension of the Presence Convention, with a minor amendment if necessary, to provide the legal basis for Allied troop stationing in the FRG. This was better, the UK thought, than trying to renegotiate the agreement either multilaterally or bilaterally now or in the future. Kastrup responded again that, while the FRG was in agreement on the need for a firm legal basis for the troop presence, it wanted to renegotiate the agreement. Weston then closed discussion on this topic, saying it was as far as the group could go that day.

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Extension of the SOFA to Berlin and the GDR  
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99. Weston turned to the applicability of the SOFA and Supplementary to Berlin. He said that up to now, the presence and status of Allied troops in Berlin had been governed by the Quadripartite Agreement and other Four-Power agreements. With the termination of Four-Power rights, however, the UK would want the SOFA and Supplementary to be extended to Berlin to govern the status of the troops stationed there.

100. Kastrup said this created problems for the Germans. Kastrup said there should be bilateral agreements between the Germans and the Sending States on stationing in Berlin. After both the U.S. and UK expressed a strong preference for a multilateral agreement, or at least multilateral negotiation of similar terms (which could be incorporated into bilateral agreements), Kastrup agreed that the Berlin stationing agreement could be negotiated and concluded on either a bilateral or a multilateral basis.

101. Kastrup said the Germans saw both the need and the urgency for agreements on the stationing and status of troops in Berlin to be in place by unification in order to prevent a legal vacuum. But, Kastrup said, the Germans opposed the extension of the SOFA to Berlin and the GDR. The Germans did see a possibility of taking the relevant provisions of the SOFA and applying them to Berlin, but this should not be done by an actual extension of the SOFA.

102. Weston said the two issues should be separated. Regardless of the decision on how to provide a legal basis for the troop presence, there was the question of the status and conditions under which the troops were there. For this, the British preferred the extension of the SOFA. Dobbins added that the U.S. also preferred an extension of the SOFA as the simplest solution. He said the U.S. would want the SOFA to apply after the transition period. He reminded Kastrup that the SOFA was not a stationing agreement, but only covered the status of troops. Dobbins said that in the interim following unification, it could be possible to say that while the SOFA did not extend to GDR territory and Berlin, its provisions did.

103. Dufourcq said that the question was what conditions should be offered for the stationing of Allied troops in Berlin. The provisions of the SOFA offered a good framework, but the French position was that it was up to the Germans to offer the conditions, and while the French favored the same conditions as those set out in the SOFA, it was not necessary to have the SOFA itself.

104. Kastrup said that with regard to the legal procedure, it would be nice to say that the SOFA applied to Berlin. However, for political reasons the Germans did not want to do this. Kastrup said it was, in fact, up to the Germans to make an offer regarding the conditions for the troop presence in Berlin. DuFourcq noted that if these were not satisfactory, the French would simply withdraw. Kastrup responded that the Germans would put forward conditions to guests invited by them to stay in Berlin.

105. Dobbins said the U.S. was concerned about whether the SOFA would be included in the state treaty between the FRG and GDR on the list of which treaties applied to GDR territory and which did not.

106. Weston asked to confirm that Kastrup had said that there should be a new agreement on stationing that could be multilateral and that all the stationing states could be party to it. Kastrup said this was, in fact, the FRG view. Weston then said it was not clear why the FRG could not accept in Berlin the actual terms and conditions for troop stationing in the FRG.

107. Kastrup answered that there would be political trouble if the Germans would agree to extend the current agreements to Berlin. He said the agreements covering Berlin must be something new. Western troops would be staying in the FRG for an indefinite period, but their presence in Berlin would be only temporary. Kastrup said it should not be complicated to draw up a special agreement for Berlin.

108. Dobbins argued that it would be very complex to draw up a special agreement on the status and conditions of the troops in Berlin. One problem was that the army might feel there was discrimination of the troops stationed there. Kastrup said the Germans were prepared to come back to the Allies to discuss any problems. Dobbins said this was not acceptable.

109. Kastrup said again that the Germans were prepared to postpone talks on revising the SOFA and Supplementary until after the December election. Dobbins said this would not resolve the matter. He said the SOFA and Supplementary were over 200 pages long. There was not enough time before October 3 to create a new agreement for Berlin and GDR territory. Either the provisions of the SOFA and Supplementary would be adopted or there would be nothing in place upon unification. The question that should be addressed was the practical one of how the provisions of the SOFA and SA should be adapted for Berlin and GDR territory.

110. Weston pointed out that a broad legal basis for the troops' status was needed by October 3. Kastrup said the Germans agreed with this. Weston said that, as he understood it, the FRG had compiled a list of treaties that would be extended to the GDR, but the intention was not to extend the SOFA. Kastrup confirmed that the SOFA would not be included in the list of agreements to be extended to the GDR; it would be specifically excluded.

111. Weston then noted that all had agreed that NATO articles 5 and 6 would be extended to the GDR. He reminded Kastrup that the SOFA did not govern troop stationing, but status. He asked, therefore, how the Germans envisaged that a soldier's legal status would change upon crossing the line marking the current FRG-GDR boundary. Kastrup said he thought the SOFA contained a reference to stationing in its title. Weston answered that it did not. He asked again what would happen if a soldier, say, ran afoul of the law while in GDR territory or Berlin as a tourist. Weston explained how the SOFA operated in such instances in other NATO countries.

112. Kastrup said that any British soldier could visit Leipzig or any other city he might wish to. He acknowledged that there did have to be an agreement on what the soldier's legal status would be if there were any kind of accident. But, Kastrup said, the point was a political one. The SOFA was connected to NATO, and extending it to Berlin and GDR territory would create the impression that NATO structures were being extended to Berlin and GDR territory.

113. Dobbins asked if Kastrup was talking about the transition period or in general. Dobbins said that after the transition period, NATO structures could be extended to Berlin and GDR territory. While the Allies might accept that the SOFA did not apply in the interim period -- although its provisions would -- in the post-transition era, the Allies would certainly want the SOFA to apply. Kastrup repeated that any Western soldier could visit Berlin and GDR territory as a tourist, but a separate agreement was needed to cover this.

114. Weston said that the status of NATO soldiers visiting any part of NATO territory as tourists was covered by the SOFA. Kastrup repeated that he thought the SOFA also applied to stationing. Weston and Dobbins assured Kastrup that this was not the case. Weston said that Kastrup was suggesting that NATO articles 5 and 6 would apply to Berlin and GDR territory, but that the SOFA could not apply. Such a situation would exist nowhere else in the Alliance. Weston said that the UK could accept that there would be no NATO troops stationed in Berlin and GDR territory, but could not accept that the NATO status of forces agreement would not apply. He said German insistence on this would create major and unnecessary difficulties. The matter rested there, with Kastrup agreeing to review the FRG position in light of the Allies' preferences.

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Soviet/Allied Equivalence in Berlin?  
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115. Weston next turned to the question of the conditions for Allied troops in Berlin compared to those for the Soviets. He said that all were agreed that there would be a new agreement on Allied troop stationing in Berlin. He noted that the Germans also intended to conclude an agreement with the Soviets. He said that the financial basis and other terms of the two agreements should be different. He asked what the German view was on the circulation of forces.

116. Kastrup said that the Germans -- for foreign policy reasons -- were ready to concede to the Soviets the same conditions as the Allies in Berlin. He said that the Allies had raised objections to this. He wanted to know what the Allied objections were in concrete terms. Which conditions that would be given to the Allies should not be given to the Soviets? Dobbins answered that, in the first instance, the Soviets should not be invited to stay the way the Allies were.

117. Weston asked if the Germans envisaged that the status of the Soviets in Berlin would be the same or different from their status in GDR territory. Kastrup said the status would be different. The Soviets had only some 2000 troops in Berlin; they had 360,000 in the GDR. So their status in Berlin had to be different. Kastrup said that for political reasons, the Germans felt that the Soviets had to be in Berlin on an equal footing with the Allies. He said the Allies had to say what their objections to this were.

118. Weston said a major difference was that the UK, U.S. and France were the Germans' allies. Kastrup asked again how this should result in any difference in concrete terms. Ledsky said that assuming a German presence in Berlin as well, the Allies assumed there would be an integrated command between the Allied and German troops. The Soviets would not be included in such an arrangement. Dobbins added that the current structure could be changed so that the three brigades were not under LIVE OAK and ultimately the Washington Ambassadorial Group command, but would be placed under the Bonn Ambassadorial Group and ultimately German command. The Germans would also be in charge of planning.

119. Kastrup said that these points were not the subject for the stationing agreement. The question involved the terms and status of the Allied and Soviet troops. If the Allies did not want there to be equal treatment, they had to tell the Germans why. If the issue was the symbolism involved, the Germans could deal with that. There would be an agreement with the Allies and a separate agreement with the Soviets that would not have the same wording.

120. Hutchings asked if the Allies were invited to stay in all of Berlin or just in the Western sectors. Similarly, were the Soviets invited to stay in the Eastern sector or in all of Berlin? Kastrup said both sides would be invited to stay in all of Berlin. Dobbins asked if the Germans wanted to have Soviet soldiers marching in all of Berlin.

121. Ledsy noted that the German request to the Allies to stay in Berlin was symbolic and a gesture to reassure the people of Berlin that they were not being submerged into East Germany. The Allied presence was therefore different from the Soviet presence. Ledsy said that the West had always wanted the Soviets out of Berlin; the Germans should ask them to leave first. Ledsy said that the German approach created parallelism and gave the Soviets a new status.

122. Kastrup said that the Soviets would insist on an equal status. He could not agree more with what Ledsy had said; the issue was loaded with emotion. But beyond the emotion, Kastrup asked, did this prevent the Germans from granting the Soviets the same conditions for their troops? Dobbins said that the U.S. followed British and French practices in many of our military activities in Berlin; the Soviets would not do this.

123. Dobbins suggested that the Germans tell the Soviets that the Soviets could remain in Berlin under terms similar to what the Soviets had now. The Soviets should tell the Germans what they did now as the basis for their continuing status in the city, and not use what the Allies were doing. Dobbins suggested this approach would lead to a better outcome. Kastrup said the Soviet presence was the reason the Germans were asking the Allies to stay in Berlin. In this light, he said, the issue of equal terms for Soviet and Allied troops became a phony problem.

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124. Weston said that Soviet troops in Berlin should remain there on the same basis as Soviet troops in GDR territory. This was common sense. Soviet troops in Berlin and Soviet troops in the GDR were both part of the same army and both would be leaving at the same time. Therefore, the Soviet troops in Berlin should have the same status as those in the GDR and not the status of the Allies in Berlin. With this remark, discussion of this issue ended.

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U.S. Position on Renegotiating the Allied Troop Presence  
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125. Dobbins then addressed U.S. concerns over the prospect of renegotiating the Allied troop presence in Germany. He said that the US found the idea of an early renegotiation of the Allied troop presence fundamentally objectionable. Dobbins said that in the context of changes in Germany, the U.S. wanted to emphasize the continuity of the German/Allied relationship. Dobbins said many practices would change -- for example, maneuvers. There would also be troop reductions. The French were planning to withdraw their troops. There would be practical consequences with regard to low-level flying, etc. There would also be a new NATO strategy.

126. But, Dobbins continued, the U.S. felt it would be unwise to renegotiate the document providing the status and conditions of the Allied presence. This could open up questions of burden-sharing. There were problems with the FRG constitution that would have to be addressed. The U.S. Congress might require of the Germans what we ask of Japan -- for example, in terms of paying local workers. These were potential nightmare problems which should be avoided.

127. Dobbins said the U.S. was prepared to amend and revise the Presence Convention. He said the U.S. accepted the right of the Germans to terminate it, but we could not accept a statement of a German intent now fundamentally to change the stationing agreement and to renegotiate the SOFA in the near term. Dobbins suggested letting a new equilibrium develop in the size and activity of Allied forces in Germany over the next years and then reviewing what might need to be altered in terms of status and conditions.

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128. Weston suggesting ending the discussion there, since Kastrup had indicated that the Germans would be considering this issue further. Kastrup said the Germans were well aware of the problems, but there was not time to discuss them now. Kastrup said he took Dobbins' points. He said that if the Germans came to the conclusion that they could live with the current legal situation, then they would continue to use article 3 [of the presence convention]. He said it should be easy to reach agreement if this was the case.

129. Kastrup continued that if the Germans felt that article 3 could not be used, then it would be necessary to find a new basis for troop stationing in the FRG. In any event, the main problem was to devise a contractual legal basis for Allied troops in Berlin. Another problem was to find a way to cover the legal status of servicemen on their travels to Berlin and the GDR.

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The Berlin Working Group  
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130. Weston then reviewed the results of the Berlin Working Group's (BWG) deliberations on Allied and Four-Power legislation, on the assumption of German jurisdiction in pending cases, on indemnification, and on the future activity of the Supreme Restitution Court. On the first, Weston said the Allies were awaiting the German view as to whether Allied law would lapse or had to be explicitly revoked. Weston also asked for views as to whether the Settlement Convention Analysis group (SCAG) was the right forum for conducting further work on this issue.

131. Dufourcq suggested merging the SCAG and the BWG. He said the French preferred to address this issue in Bonn, supplementing the delegations with experts from Berlin and capitals.

132. Weston asked Kastrup for the German view on whether Allied law would lapse automatically. Kastrup said he could not give an answer now that had been agreed by all the FRG Ministries concerned. His own view was that Allied law would lapse. He said that if the Germans came to a different conclusion, they would provide a sentence for the draft settlement text to handle the problem.

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Suspension Declaration and Rights in Berlin

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133. Kastrup then asked what would happen in Berlin if the Soviets would not agree to a suspension of Four-Power rights between unification and the entry into force of the Settlement. He asked which laws would be applicable. It seemed to him the problem would be nearly impossible to solve legally. Would the Allies say that the "Mantelgesetz" (enabling law) was no longer applicable?

134. Dobbins said Kastrup was asking if the Allies would give up their rights while the Soviets kept theirs. Kastrup said he was not asking this explicitly. Dobbins continued that the U.S. was ultimately prepared to give up our rights, but would also say that the Soviets could not exercise theirs. The U.S. could not say that we gave up our rights, but the Soviets had kept theirs.

135. Dobbins said it was up to the Germans to decide if this was a fundamental issue. The Germans had to say to the Soviets that it was not acceptable for the Soviets to refuse to agree to a suspension of Four-Power rights upon unification. The Soviets were clearly sensitive to German public opinion; the Germans should not say anything to the Soviets that might suggest there was an alternative to suspension.

136. Weston expressed surprise that Kastrup was raising this. Kastrup said the Germans wanted to prepare for the contingency. Dufourcq said it would be impossible to go to the French parliament saying that France had renounced its rights in Berlin and Germany unilaterally. Dufourcq said the suspension was a necessity. The meeting concluded with a review of the practical arrangements for the next Political Directors' meeting in September and the upcoming Moscow Ministerial.