

DEPARTMENT OF STATE
POLICY PLANNING COUNCIL

*S + P Berlin
Powers*

September 16, 1961

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September 16, 1961

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MEMORANDUM

SUBJECT: NEGOTIATING STRATEGY --
BERLIN-GERMANY CRISIS

1. The object of our negotiating strategy should be to secure Soviet acceptance of a favorable Berlin agreement, in return for Western acceptance of mutually advantageous agreements in regard to all-German matters and European security and at least tacit Western acquiescence in a Soviet treaty with the GDR.

2. This memorandum suggests a course of action designed to accomplish this object without either premature exposure of our reserve positions or such public "falling back" to these positions as would connote Western defeat.

3. The first step would be private substantive discussions with the Soviets over a period of several weeks, first between the Secretary and Gromyko and then between Ambassador Thompson and the Soviet Government. Meaningful bargaining could probably be more effectively undertaken in such private discussions than in a public forum; it might even be possible to persuade the Soviets of this fact.

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4. There would be continuing consultation with our allies about these discussions, whose purpose would be to ascertain if a useful basis existed for formal multilateral negotiations. A date would not now be set for formal negotiations, although there could be considerable public noise about the fact that they impended.

5. It is always possible, of course, that the private discussions would prove abortive, and that we would then want to go fairly quickly to formal negotiations, if only to inhibit Soviet unilateral action. The more business we could accomplish beforehand in private discussions, however, the less would be the need for the kind of later public retreats which might seem a sign of weakness, to our own and allied public opinion, in formal negotiations.

6. We would start, in these private discussions, by suggesting that formal negotiations should address the unresolved problems not only of Berlin but also of Germany and Central Europe. The object should be to:

(a) agree immediately on Berlin and such other of these problems as the parties believe need to be resolved now;

(b) create

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(b) create a framework for continuing consideration of the remaining problems, to provide a basis for sustained progress in dealing with them.

7. From our standpoint, we would suggest that Berlin is the subject on which agreement is most urgently needed: No genuine relaxation of tension is possible until the threat of unilateral action there is removed. We would make clear basic requirements which the Free City proposal fails to meet and which any new Berlin agreement must satisfy:

(a) We want the West Berliners to be free to keep Western forces in present numbers, if they wish, and to exclude Soviet forces.

(b) We cannot rely on GDR pledges for access. If the USSR gives up its responsibilities, we will want (i) creation of an International Authority to control traffic along the autobahn; (ii) an agreement, to which the USSR will be a signatory, guaranteeing continuation of procedures no less favorable than those now obtaining in respect of other kinds of access (air, canal and railroad) after the East Germans replace Soviet personnel.

In elaborating these requirements, we could, if pressed, discuss the possibility of meeting them through an agreement

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which would not prejudice either side's view of the juridical status of Berlin.

8. We would bargain for Soviet acceptance of these requirements regarding Berlin by opening up opportunities which the Soviets should consider favorable to them in the all-German and European security fields: We would indicate that we had in mind Mixed German Commissions to deal with various all-German matters and a Four Power Commission on European security, which would come into existence if there were agreement on Berlin. We might hint at some of the less controversial proposals which could be considered in these bodies; e.g., increased West German trade and credits to East Germany, and a non-aggression agreement. We might also imply that we would not go beyond making proper protests against a treaty which did not prevent or overthrow agreements reached regarding Berlin.

9. It seems unlikely that agreement with the Soviets could be reached on the basis of the positions indicated above, and yet we could not go beyond those positions without allied consent. Some form of high-level pressure, e.g., at a Western summit, would probably be needed to secure that consent. The alternative, we would inform our allies, seemed to be failure of

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negotiations and possible execution of contingency plans. In this circumstance, some greater allied flexibility might be evident.

10. Following this high-level allied consultation, it would probably be necessary to propose a specific date for formal negotiations with the Soviets. We might set that date sufficiently forward, however, to permit further private discussions in the meantime, to explore whether the reserve positions indicated below might provide a basis for agreement in these negotiations:

(a) change in juridical status of Berlin envisaged in the "Guaranteed City" proposal;

(b) some immediate agreements in the European security field, even before the Four Power Commission was set up, e.g., Oder-Neisse, non-aggression pact, and a general agreement not to facilitate national production or possession of nuclear warheads by countries not now possessing them in Central Europe;

(c) as a deep fall-back: parallel peace treaties, if agreement on the above substantive points could be consummated only in this framework -- which seems rather unlikely.

11. If these final private discussions prospered, we could put forward with some assurance of acceptance, at the start of

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ensuing formal negotiation, something close to the position on which we had closed in the private discussions. Much of the necessary bargaining would have been accomplished beforehand, without exposing our successive fall-backs to full public view.

12. The sequence of actions outlined above will probably not take place in the specific manner and order indicated. Unforeseen events will intervene. We will be most likely to achieve our purpose in the face of these unforeseen events, however, if we have in mind the general strategy that we wish to follow. This paper is designed to suggest such a strategy, and to indicate one way in which it might be given effect, rather than to predict the precise pattern which unfolding negotiations are likely to follow.

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DEPARTMENT OF STATE
POLICY PLANNING COUNCIL

This document consists of 6 pages
No. 1 of Copies, Series C

September 6, 1961

DRAFT OPENING PROPOSAL (Revision of Western Peace Plan)

1. The Governments of France, the UK and the US are convinced of the urgent need for a settlement of the German problem. They desire to seek, in such a settlement, progressive solutions which would bring about German reunification and security in Europe. Moreover they believe that progress on each of the problems of general disarmament, European security and a political settlement in Europe affects the degree of progress possible in the solution of each of the other problems.

They accordingly propose to the Government of the USSR an agreement between the Four Governments that would include the measures outlined below. The measures envisaged are closely inter-related, and the present proposals are therefore to be regarded as an inseparable whole.

A. A Four Power Commission

2. The Four Powers would establish a Four Power Commission for consultation among the parties, to supervise the implementation of the agreement, to settle any disputes that might

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that might arise before the conclusion of a peace settlement, and to consider European security arrangements as provided below. German advisers would be attached to the Commission.

B. Berlin

3. With regard to Berlin, the Four Powers would agree that:

(a) Berlin is one city and belongs to all Germany.

(b) They will negotiate a status for Berlin which will last until reunification, and which will provide for the freedom and self-government of the city, for freedom of access to and from the city, and for presence of the external forces which are needed for the city's protection and desired by its inhabitants.

(c) The Four Powers will negotiate concurrently about a new status for Berlin and about the proposals regarding Germany and European security made elsewhere in this Peace Plan. Any Four Power agreements reached on the proposals regarding Germany and European security, and particularly to create a Mixed German Committee or a Four Power Commission on European Security, shall not come into effect until the new arrangements for Berlin have been agreed to and have taken effect.

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C. All-German Matters

4. Bearing in mind the complex issues involved in a German settlement, the Four Powers would agree that preparatory measures during a transitional period be undertaken. A Mixed German Committee would be created by the Federal Republic of Germany and the East German regime, with the approval of the Four Powers.

5. The Mixed Committee would consist of 25 members from the FRG and 10 members from the "GDR", appointed by the Federal Government and the East German authorities. It would take its decisions by a three-quarters majority.

6. The Mixed Committee would formulate proposals:

- a. to coordinate and expand technical contacts between the two parts of Germany.
- b. to safeguard the free movement of persons, ideas and publications between the two parts of Germany.
- c. to increase mutually beneficial trade and credits, and mutual economic assistance programs between the two parts of Germany.
- d. to safeguard human rights in both parts of Germany.

e. to

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- e. to prepare the way for eventual economic and political integration.
- f. to prepare a draft law for general, free and secret elections under independent supervision.

7. If agreement is reached in the Mixed Committee on an electoral law within a thirty month period, elections for an all-German assembly would be held under that electoral law as approved by the Four Powers and in an all-German plebiscite. The elections would be supervised by representatives of either (a) the UN and both the Federal Republic of Germany and the East German authorities, or (b) the Four Powers and both the Federal Republic of Germany and the East German authorities.

8. The assembly would draft an all-German constitution to establish and secure a democratic federative system.

9. An all-German Government would be formed under the constitution, replacing the governments of the Federal Republic and the "GDR". It would have:

- a. full freedom of decision in regard to internal and external affairs, subject to the rights retained by the Four Powers as stipulated in para. 11 below,

and

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and later to any limitations that might be included in a peace treaty.

- b. responsibility for negotiating an all-German peace treaty.

10. If all-German elections had not been agreed on before the termination of a thirty months period beginning on the date of the signing of this agreement, the Four Powers would determine the disposition to be made of the Committee.

11. Pending the signature of a peace treaty with an all-German Government, the Four Powers would retain only those of their rights and responsibilities which relate to Berlin and Germany as a whole, including reunification and a peace settlement and, as now exercised, to the stationing of armed forces in Germany and the protection of their security.

D. European Security

12. The Four Powers, acting in the Four Power Commission, would establish arrangements to assure European security and safeguard against attack in Europe. These would become effective coordinately with progress toward a German settlement. They would include agreements pledging the parties to settle
disputes

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disputes among themselves only by peaceful means, to refrain from the use of force in any manner inconsistent with the UN Charter, and to withhold military or economic assistance from any aggressor.

13. The Four Power Commission would seek to act, in association with other interested states, in formulating these security arrangements for Central Europe. It would keep in touch with disarmament negotiations in other forums, seeking to coordinate agreements reached in them with regional arrangements in Central Europe, both as to nature and timing.

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DEPARTMENT OF STATE
POLICY PLANNING COUNCIL

This document consists of 13 pages
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Revised paper

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September 15, 1961

DRAFT SUPPLEMENTARY NEGOTIATING POSITION ON BERLIN,
GERMANY AND EUROPEAN SECURITY

This paper presents a rationale leading to an amplification and partial modification of the initial Western proposal, suggested in the September 6 S/P paper, for use in serious negotiations, as these may develop, relative to Berlin, Germany and European security.

I. Rationale

A. Theory of Negotiation

To explain the nature of the positions advanced here, it is useful to clarify the concept of the negotiating process on which they are based.

The positions suggested are to be viewed as contingent on a demonstrated willingness of the Soviets to engage in negotiation on the basis of (1) a cooperative search for possible areas of agreement from which both sides will derive advantage; and (2) reciprocal, equivalent concessions as part of a bargaining process.

To refer to positions as "fall-backs" conveys the erroneous impression that they amount to one-sided, uncompensated concessions, representing retreat from or

surrender

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surrender of positions once held essential. This mistakenly assumes that positions once taken are absolutes from which any deviation means a net loss. It overlooks the fact that any position is necessarily relative to an existing situation, including the position of the other party.

If the Russian position can be modified in ways advantageous to us through modification of our own position, it may well represent a net gain and not a loss. It is the essence of realistic negotiations to seek such advantage. In a specific situation, such as Berlin, it may prove that the attainment of a greatly desired end result of negotiation more than offsets the losses involved in specific concessions made to achieve it.

We should seek, and persuade the Soviets to seek to find, develop and build upon identifiable interests common to both sides in the Central European area, and on this basis to modify some of the elements in the position of each side which seem to impinge upon interests of the other. Thus we might move from a confrontation of wishes to a congruence of purposes.

B. Basic Objectives in Central Europe

The existing situation in Central Europe including Germany has given rise to a series of crises and disturbances which,

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which, over the last decade and a half, have disturbed the orderly course of international affairs and, if continued, seem likely to create an intolerable risk of war. We thus have a fundamental interest in increasing stability in Central Europe while upholding the freedom and security of West Berlin. This interest in stabilization affords some common ground of approach with the USSR.

The requirements for such stabilization are, in brief:

1. Assuring the freedom of West Berlin including free access, both civilian and military, through recognition of a special status for West Berlin and confirmation that the access routes will remain open on the basis of the arrangements existing on July 1, 1961; eliminating practices tending to jeopardize peace and international stability in both parts of Berlin; and, to the extent possible, removing barriers to free circulation within Greater Berlin.
2. Preventing the building up or occurrence of a political explosion in East Germany; promoting conditions which would modify the nature of the East German regime over a period of time; and ensuring that activities in West Berlin would
contribute

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contribute to this objective and would not tend to precipitate an explosion in East Germany.

3. Stabilizing military policies in Central Europe so as to reduce the danger of war through threats of forcible alteration of agreed situations, surprise attack, accident or miscalculation.

Inasmuch as we are especially concerned about the first, while sharing equally with the Soviets a concern about the second and third of these objectives, we might envisage negotiations whereby we would be ready to modify our present policies materially in the latter two respects in order to secure our first objective.

C. Aspects of Negotiation

Negotiations will inevitably deal with three closely related subjects--Berlin, Germany and European security.

1. Berlin

Bearing in mind the inevitable erosion of present arrangements with time, and the infeasibility for the foreseeable future of an all-Berlin solution, we would favor a modified status for West Berlin under a "Guaranteed City" plan, as elaborated in the Draft Proposal.

This would, in some respects, be an approach to the Soviet "Free City" plan, with Western troops if desired by the West Berliners, and hence might prove a fruitful basis for

negotiations.

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negotiations. Variants of it, however, might be developed in the course of negotiation.

2. Germany

Recognizing that German reunification is, for the present, unlikely, we would, while adhering to it as an ultimate goal, accept the coexistence of the two Germanies for the measurable future. We would, in the short term, seek a modus vivendi of the West with the GDR, including recognition of the Oder-Neisse line and other existing frontiers. We would seek, through alleviation of the German problem, to reduce tensions between the Germans and their Eastern neighbors. Our emphasis would be on making Central Europe stable, safe and secure, while leaving the internal German problem to be worked out by the Germans over time.

3. European Security

We would admit the dangers of the present military confrontation, yet avoid any radical moves that might create a vacuum in Central Europe through ill-considered schemes for disengagement or neutrality.

Our proposals would presuppose a prior or concurrent Berlin arrangement on acceptable terms. They would aim at military stabilization through arrangements that would reduce the risks of war in Central Europe, taken to include the two Germanies, Poland, Czechoslovakia, and possibly additional countries.

Negotiation

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Negotiation of European security arrangements would be related to and coordinated with negotiations and agreements on limitation of armaments in other forums. For these purposes a Four-Power Commission, possibly broadened to a European Security Commission, would be the instrument.

II. A Draft Proposal

1. The Governments of France, the UK and the US are convinced of the urgent need for a settlement of the German problem. They believe such a settlement must be linked, through progressive and related steps, to progress on each of the problems of general disarmament, European security, and a political settlement in Europe.¹

They accordingly propose to the Government of the USSR an agreement between the Four Governments that would include the measures outlined below. These measures are interdependent and should therefore be regarded as an inseparable whole.

A. A Four Power Commission

2. The Four Powers would establish a Four Power Commission for consultation among the parties, to supervise the implementation of the agreement, to settle any disputes that might

1 The Sept. 6 draft made German reunification an essential element of the settlement.

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that might arise before the conclusion of a final settlement, and to consider European security arrangements as provided below. German representatives¹ would be attached to the Commission, and, as appropriate, representatives of other Central European governments (see D below).

B. Berlin

3. The Four Powers agree that Berlin is one city and belongs to all Germany.

4. Pending the restoration of Berlin as the capital of a reunified Germany, the Four Powers would agree upon a Convention on West Berlin, which would come into effect upon its approval in a West Berlin plebiscite. Its main provisions would be as follows:²

a. The Government of West Berlin would exercise full authority over its internal and external affairs pending the conclusion of a German peace settlement, except that it could not enter into any military alliance or become a part of any other political entity. It would be guaranteed by the Four Powers against any external interference in those affairs.

b. The

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1. The Sept. 6 draft used the term "German advisers".
 2. Para. 4 and its sub-paragraphs are new.

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- b. The Government of West Berlin could request any member of the UN to station forces in West Berlin, provided that the total did not exceed 11,000 men.
- c. The Government of West Berlin could maintain its present economic ties with West Germany.
- d. The Parties to the Convention and the Government of West Berlin would agree to avoid activities in or respecting Berlin that disturb public order or seriously affect the rights and interests of others.
- e. Free, non-discriminatory, and unrestricted access would be maintained by land, by water, and by air for all persons and goods, including those of any military forces stationed in West Berlin, between West Germany and West Berlin under the procedures now obtaining, except that German personnel might be used in the execution of these procedures.
- f. There would be a UN presence in Berlin to observe fulfillment of the agreement. The Government of West Berlin could also invite the UN to transfer other organs and activities to West Berlin and make Berlin a major center of the UN's European activities, if it wished.

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- g. An International Authority would maintain the autobahn in good repair and charge tolls on traffic as necessary to pay costs of maintenance.¹
- h. Disputes over interpretation of the agreement would be referred to an arbitral tribunal, with three Western and three Soviet members and the seventh member being chosen either with the agreement of the Four Powers, or failing that, by the Secretary General of the UN.

5. Any agreements on Germany and European security referred to elsewhere in this Plan shall not be approved or take effect until the new Convention on West Berlin has been agreed to and has entered into force.²

C. All-German Matters

6. Bearing in mind the complex issues involved in a German settlement, the Four Powers would agree that preparatory measures during a transitional period be undertaken. Mixed German Commissions would be created by the Federal Republic and the East German regime, with the approval of the Four Powers.

7. The Mixed

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- 1. A preliminary effort might be made to obtain an easement for the International Authority over the autobahn and a narrow strip on each side.
 - 2. In the previous proposal the creation of the Committee and Commission was made conditional on the new arrangements for Berlin taking effect.

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7. The Mixed Commissions would consist of members chosen in equal numbers by the Federal Republic and the East German regime.¹ They would take their actions by a three-fourths majority.

8. The Mixed Commissions would formulate proposals:

- a. to coordinate and expand technical and cultural contacts throughout Germany.
- b. to further and safeguard the free movement of persons, ideas and publications throughout Germany and to safeguard human rights throughout Germany.
- c. to increase mutually beneficial trade and credits, and develop mutual economic assistance programs, throughout Germany.
- d. to serve as the framework within which relations throughout Germany might be regulated and ways and means of eventual economic and political integration might be explored.²

9. Pending the

1. The Sept. 6 draft provided for 25 West German members and 10 East German members and for only a single Mixed German Committee.

2. The Mixed Committee has been changed from the Sept. 6 draft, in that it is no longer charged with drafting an electoral law, no provision is made for specific steps toward German reunification, and no term is set on its life.

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9. Pending the conclusion of a German peace settlement, the Four Powers would retain those of their rights and responsibilities which relate to Berlin and Germany as a whole, except as these may be modified elsewhere in this agreement.

10. The Four Powers would declare their intention to prevent forcible change in German frontiers as they now exist. They would declare their intention to support these frontiers, with no more than minor rectifications, in a final peace settlement.

D. European Security¹

11. The Four Powers, acting in the Four Power Commission, would seek to negotiate agreed arrangements for security in Central Europe, defined for these purposes as including all parts of Germany, Poland, Czechoslovakia, Hungary, the Benelux countries, and Denmark. The Four Powers would work out arrangements for participation in the work of the Commission by representatives of all countries in this area, thus creating a European Security Commission.

12. The Four Powers, acting through the Commission, would seek to establish the following security arrangements, with appropriate measures to ensure compliance:

a. The possession and manufacture of nuclear warheads to be prohibited to all NATO and Warsaw Pact members
who do not

1. The treatment of European security differs from the Sept. 6 draft, principally in that it gives the specific measures to be considered in the European Security Commission.

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who do not now make or possess them. States owning nuclear warheads undertake to retain control of these in their own hands. States possessing the materials and technology necessary to produce nuclear warheads undertake not to transfer these to nations which now lack the materials and technology. Corresponding undertakings would be sought from states which do not already make and have nuclear warheads -- not to receive materials and technology for their manufacture, not in fact to make them, and not to obtain control of the use of nuclear warheads belonging to other states. (Similar prohibitions might well be applied to chemical and biological weapons.)

b. No MRBMs (ballistic missiles with a range of more than 1,000 miles) to be emplaced in Central Europe.

13. The Four Powers, acting through the Commission, would also explore over the longer run the possibility of:

a. Ceilings on conventional forces, both external and indigenous, in Central Europe, including the possibility of gradual reductions.

b. A ban on stationing nuclear warheads in a narrower zone extending on both sides of the present boundary between the two parts of Germany, as agreed by the Four Powers.

c. Ground and aerial inspection throughout Central Europe, including advanced radar screens on both sides and more elaborate inspection within the smaller, denuclearized zone.

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14. The Four Powers would agree to enter into a non-aggression treaty with each other, and to propose that all NATO and Warsaw Pact members become parties to such a treaty. This treaty would bind the parties to settle all disputes peacefully; not to use armed force against any other member unless for legitimate self-defense; not to give assistance to any nation engaged in acts of aggression.

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PROPOSAL FOR REUNIFICATION OF BERLIN

1. Pending the reunification of Germany and as a first step towards that goal, Greater Berlin shall be governed and administered as one indivisible area.

2. Elections for a Berlin Constitutional Council shall be held 60 days after the conclusion of this agreement and pursuant to the following provisions:

a) The Constitutional Council shall consist of 100 members elected by universal, free, secret and direct ballot.

b) Greater Berlin shall consist of one electoral district in which elections would be conducted according to the principle of proportional representation.

c) Nomination lists shall be submitted by political parties which participated in the last municipal elections in either West or East Berlin.

d) All German citizens who on the day of the election had passed their twentieth birthday and had had their domicile in Berlin for a minimum period of six months shall have the right to vote.

e) All persons having the right to vote and having passed their twenty-fifth birthday on the day of the election may stand for election.

f) Appropriate measures shall be agreed to insure freedom of elections.

g) The Constitutional Council, which shall assemble one week after the election, would draft, within 60 days, a Constitution for Greater Berlin and an electoral law. The draft Constitution and the electoral law shall be submitted for approval of the people of Berlin in a plebiscite, safeguarded in the same manner as agreed under paragraph f), to be held within 30 days after completion of the drafting of the Constitution and the electoral law. The Constitution and the electoral law shall come into effect if approved by a majority of those voting.

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3. The Government of Berlin shall be free to negotiate its own administrative, economic, fiscal, and judicial relationships with the other parts of Germany and may charge any other part of Germany with its international representation. Pending German reunification, Berlin may not be incorporated into any other part of Germany.

4. No person shall be prosecuted or punished by reason of his previous political activities.

5. The freedom and integrity of Berlin and access thereto shall be guaranteed by the Four Powers.

6. The Government of West Berlin shall exercise full authority over its internal and external affairs subject only to such limitations as are specifically set forth in this Convention.

7. No occupation rights in or relating to West Berlin shall be exercised so long as this agreement is otherwise being observed, except insofar as such rights pertain to Germany as a whole, including the reunification of Germany and a peace settlement.

8. The Government of West Berlin may request any nation which is a member of the United Nations to station military forces in West Berlin up to a combined total of 11,000 military personnel.

9. Nuclear weapons and missiles shall not be located in West Berlin.

10. Activities shall, consistent with fundamental rights and liberties and the provisions of this Convention, be avoided in or with respect to Berlin which would disturb public order or seriously affect the rights and interests of others.

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11. Free and unrestricted access to Berlin by land, by water, and by air for all persons and goods, including those of any military forces stationed in Berlin under this agreement shall be maintained in accordance with the procedures and practices in effect in July 1961 except:

a) German personnel may be used in carrying out procedures;

b) The Autobahn Helmstedt-Berlin shall be kept open to traffic and maintained in good repair by an International Autobahn Authority in accordance with the provisions set forth in the Charter establishing the Authority (which would be annexed). No charges shall be levied on through traffic using the Autobahn between Helmstedt and Berlin except by the Authority. (The Charter of the Authority would specify its functions and provide for its management by an international civil servant, perhaps appointed by the Secretary General of the United Nations.)

12. The fulfillment of this agreement shall be observed by a Representative of the Secretary General of the United Nations, with adequate staff. The Representative may, as the occasion arises, report to the Parties to this agreement regarding any activities which, in his opinion, appear to be in conflict with its fulfillment.

13. This agreement shall remain in force until Germany is reunified.

14. This agreement shall enter into force upon signature by each Party hereto, upon its filing with the Secretary General of the United Nations, and upon the issuance of declarations by the Federal Republic of Germany and the East German authorities pledging to comply with its provisions.

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REVISED DRAFT

CONVENTION ON WEST BERLIN

The Governments of France, the United Kingdom, the United States of America, and the Union of Soviet Socialist Republics, hereinafter referred to as the Parties, do hereby agree as follows:

Article I. Self-Government

For the duration of this Convention the Government of West Berlin shall exercise full authority over its internal and external affairs, within the area set forth on the attached map, subject only to such limitations as are specifically set forth in this Convention.

Article II: Suspension of Occupation Rights

No occupation rights in or relating to West Berlin shall be exercised for the duration of this Convention except insofar as such rights pertain to Germany as a whole, including the reunification of Germany and a peace settlement.

Article III: Military Forces

1. West Berlin shall not enter into any military alliance or defense arrangements other than as provided in this article.

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2. The Government of West Berlin may request any nation which is a member of the United Nations on the date this Convention becomes effective to station military forces in West Berlin up to a combined total of 11,000 military personnel.

3. No military forces shall be stationed in or enter West Berlin except as provided for in this Convention. Nothing in this Convention, however, shall limit the authority of the Government of West Berlin to maintain its own forces for the protection and defense of the city.

Article IV: Nuclear Weapons

Nuclear weapons and missiles shall not be located in West Berlin.

Article V: Political Relationships

West Berlin shall not be entitled to become a part of any other state or political entity. It shall be entitled to maintain or vary its economic and financial relationships with that Republic in such manner as the Government of West Berlin may deem advisable.

Article VI: Disturbing Activities

The Parties to this Convention and the Government of

West Berlin

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West Berlin shall, consistent with fundamental rights and liberties and the provisions of this Convention, avoid activities in or with respect to Berlin which disturb public order or seriously affect the rights and interests of others.

Article VII: Access

1. From the date of the entry into force of this agreement free, non-discriminatory, and unrestricted access to West Berlin by land, by water, and by air for all persons and goods, including those of any military forces stationed in West Berlin pursuant to the provisions of this Convention and freedom of communication with West Berlin, shall be maintained in accordance with the procedures and practices in effect in July 1961 as set forth in Annex _____^{1/} except:

a) German

1/ It might be desirable to try to agree on and to set down these specific procedures in writing before the Guaranteed City arrangement took effect.

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a) German personnel may be substituted for personnel of the Parties in carrying out procedures which in July 1961 were executed by personnel of the Parties hereto;

b) The Autobahn Helmstedt-Berlin shall be kept open to traffic and maintained in good repair by an International Autobahn Authority in accordance with the provisions set forth in the Charter, establishing the Authority, annexed hereto. No charges shall be levied on through traffic using the Autobahn between Helmstedt and Berlin except by the Authority. (The Charter of the Authority would specify its functions and provide for its management by an international civil servant, perhaps appointed by the Secretary General of the United Nations.)

2. The procedures in effect in July 1961 shall be reviewed by the Quadripartite Commission established under Article IX. The Commission shall have power by unanimous action to amend or modify the existing procedures in all cases wherein such action would tend to increase the effectiveness of the procedures.

Article VIII:

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Article VIII: United Nations

1. The fulfillment of Articles III, IV, V, VI and VII of this Convention shall be observed by a Representative of the Secretary General of the United Nations, with adequate staff.

2. The Representative and his staff shall be entitled to such privileges and immunities as are necessary to permit the successful discharge of their responsibilities and, for such purpose, shall have free access to Berlin and to the areas traversed by access routes to Berlin, and Greater Berlin communications and utilities facilities.

3. The Representative may, as the occasion arises, report to the Parties to this Convention regarding any activities which, in his opinion, appear to be in conflict with the fulfillment of Articles III, IV, V, VI and VII.

4. The Government of West Berlin may, at its discretion, invite the United Nations to locate such of its organs and activities as it may deem appropriate in West Berlin.

Article IX: Quadripartite Commission

1. A Conciliation Commission shall be established which will meet in Berlin to examine any difficulties arising out of the interpretation or execution of this Convention.

2.

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2. Each of the Parties to this Convention shall appoint one member of the Commission.

3. The Commission shall consider any complaint which may be advanced by one of the Parties hereto regarding any action which such power considers to be in contravention of the provisions of this Convention and to consider any report concerning activities which appear to be in conflict with its provisions which may be submitted by the Representative of the Secretary General to the Parties to this Convention. The Commission shall base its decision in respect of any such complaint or report upon whether the action complained of is or is not in conformity with this Convention. Any decision of the Commission on a complaint or report, or regarding a procedure under Article VII hereof, must be concurred in by all four members of the Commission, and such decision shall be binding upon the Parties hereto and the West Berlin Government.

Article X: Arbitral Procedure

1. A Berlin Arbitration Tribunal is hereby established which has jurisdiction to hear and determine all questions relating

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relating to the interpretation and execution of the Convention not otherwise disposed of. Any decision of the Tribunal, including any preliminary orders which the Tribunal may issue, shall be fully binding upon each of the Parties and upon the Government of West Berlin.^{1/}

2. The Tribunal shall be composed of seven members, as follows:

- a) a member selected by the French Government,
- b) a member selected by the British Government,
- c) a member selected by the United States Government,
- d) three members selected by the Government of the USSR,
- e) a President selected by the Parties jointly.

If the Parties do not agree upon the President within one month of the coming into force of this Convention, the Secretary General of the United Nations may appoint such President upon application of any Party.

3. The Tribunal shall hear, and decide by majority vote:

- a) any matter regarding the interpretation or execution of this Convention referred to it by a Party

which has

1/ See attached declarations by the Federal Republic of Germany and the East German authorities.

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which has not been submitted to the Quadripartite Commission.

b) upon application by any Party, any complaint or report submitted to the Quadripartite Commission, which the Commission is unable to decide within one month from the date of such submission.

Article XI: Duration

This Convention shall remain in force until Germany is reunified. Upon the reunification of Germany, any rights or authority of a governmental character which any of the Parties may have or claim to have with respect to Berlin shall be terminated.

Article XII: Entry Into Force

This Convention shall enter into force upon signature by each Party hereto, upon approval of the Convention in a West Berlin plebiscite, and upon the filing with the Secretary General of the United Nations by the Government of West Berlin of a certification that it accepts the provisions of the Convention as valid and binding upon West Berlin, and upon the issuance of declarations by the Federal Republic of Germany and the East German authorities pledging to

comply with

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comply with the provisions of the protocol and accept the decisions of the Quadripartite Commission or Arbitral Procedure.

Upon signature, this Convention shall be deposited with the Secretary General of the United Nations.

End

(Note: Proposed declarations by the Federal Republic of Germany and by the East German authorities are shown on the following page. A proposed declaration by the US, indicating its willingness to continue stationing forces in Berlin, if this is desired by the Government of West Berlin, is shown on the page after that.)

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DRAFT DECLARATION

The Federal Republic of Germany (German Democratic Republic) has taken note of the Convention on West Berlin which has been signed by the Governments of France, the United Kingdom, the United States of America, and the Union of Soviet Socialist Republics on _____.

The Federal Republic of Germany (GDR) will take all such action as may be necessary to facilitate the carrying out of the provisions of the Convention. It will comply with any decisions of the Quadripartite Commission or the Berlin Arbitration Tribunal regarding matters submitted to such bodies pursuant to the Convention.

The Federal Republic of Germany (GDR) will, consistent with fundamental rights and liberties, avoid activities in or with respect to Berlin which might either disturb public order or seriously affect the rights and interests of others.

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PROPOSED UNITED STATES DECLARATION

The Government of the United States has indicated on various occasions during recent years the continuing interest of the people of the United States in the safety and welfare of the people of the City of Berlin. The courage and devotion of the Berliners to the principles of freedom and democracy have set high standards for the entire world. In connection with the agreement which has now been reached providing for a guarantee of Berlin by the Four Powers, the United States wishes to renew its continuing interest in and support for Berlin and its intent, if requested by the Berlin authorities, to continue to maintain United States forces in Berlin.

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August 31, 1961

A SECURITY ARRANGEMENT FOR CENTRAL EUROPE

This is an outline of a security arrangement for Central Europe. It is drafted in the light of the proposed NATO build-up and related recent modifications in U.S. and NATO military doctrine. It is offered not as an initial negotiating position but as an acceptable agreement - one which would serve the defensive interests of the West and, it is believed, of the Soviet Union.

The main purposes of this proposed security arrangement are to: (1) establish a military equilibrium at a level which the West can sustain; (2) reduce the danger of surprise attack; (3) reduce the danger of war by accident; (4) prevent war by independent decision of an ally or allies of either the U.S. or the USSR; (5) restrain the diffusion of nuclear weapons; (6) reduce the likelihood of quick, unconsidered, escalation of military hostilities.

This plan combines limitations on conventional forces with limitations on nuclear and other weapons of mass destruction. These interlock.

This plan

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This plan is designed to serve as long as Europe remains divided or at least until an all-German settlement is consummated. Since a definite time period must be stated in the agreement, it is suggested that this be 20 years, subject to renewal.

This plan supposes a prior or concurrent Berlin arrangement on satisfactory terms - that is on terms which assure the viability of West Berlin as part of the free world and make access to West Berlin from the West reasonably secure against future interruption or harrassment. Continued observance of the security arrangement would be contingent on continuing fulfillment of the Berlin agreement.

Certain features of this security arrangement may be very attractive to the Soviet Union. We may wish to use these bargaining assets in negotiating a package deal including Berlin and the future of Germany.

What this proposal is not: It is not a plan for creating a military vacuum in Central Europe. It is not a plan for a disarmed or "neutral" Germany. It is not intended to lead toward an eventually neutral Germany. On the contrary, it
is designed

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is designed to keep the Federal Republic embedded in NATO and the Western European community. The philosophy of this proposal is thus fundamentally different from the Kennan proposal of 1957-1958.

MAIN ELEMENTS OF THE SECURITY ARRANGEMENT

Central Europe, for this purpose, includes, at the minimum, the Federal Republic, the eastern zone of Germany, Poland, and Czechoslovakia. (To this area, it might not be disadvantageous to add, for certain purposes, the Benelux countries and Denmark, on one side, and Hungary ((and possibly Rumania)) on the other.)

1. Ceilings on Conventional Forces.

A. A ceiling on external military forces stationed in Central Europe. Initially this might be in the nature of a "freeze" at specified levels. These should allow for completion of the proposed NATO build-up. Consideration should be given to a gradual although limited scaling down of external forces stationed in Central Europe, provided that the U.S. forces withdrawn could be redeployed in Europe.

B. A ceiling on indigenous forces in Central Europe, allowing for the West German build-up.

2. Restrictions

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2. Restrictions on Nuclear Armaments.

A. The possession and manufacture of nuclear warheads to be prohibited to all NATO and Warsaw Pact members who do not now make or possess them. States owning nuclear warheads undertake to retain control of these in their own hands. States possessing the materials and technology necessary to produce nuclear warheads undertake not to transfer these to nations which now lack the materials and technology. Corresponding undertakings by states which do not already make and have nuclear warheads - not to receive materials and technology for their manufacture, not in fact to make them, and not to obtain control of the use of nuclear warheads belonging to other states. (Similar prohibitions might well be applied to chemical and biological weapons.)

B. No MRBMs (ballistic missiles with a range of more than 1,000 miles) to be emplaced in Central Europe.

C. No nuclear warheads to be emplaced or stored in a narrower zone - perhaps 35 to 75 miles on either side of the Iron Curtain, dependent on military considerations affecting the location of storage sites.

3. Inspection.

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3. Inspection.

A. Ground and aerial inspection throughout Central Europe. Preferably also the advanced radar screens proposed in the Norstad Plan.

B. More elaborate inspection in the smaller, completely denuclearized, zone.

4. Acceptance of the Oder-Neisse Line as permanent.

5. A Non-Aggression Pact.

The NATO and Warsaw Pact nations agree to settle their disputes by peaceful means and that none of the members of one organization shall use armed force against any members of the other, except in self-defense, etc.

This treaty might well include most, if not all, of the specific military limitations outlined above. Alternatively, some of these might be effected through other instruments or even by informal understanding among the major powers, especially the Soviet Union and the United States.

THE ARGUMENT - GENERAL:

Khrushchev has evinced in many ways his anxiety about the possibility that the Federal Republic will acquire nuclear armaments.

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armaments. To prevent this, it is reasonable to suppose that he would pay a price. The concessions by him contemplated here relate to limitations on conventional forces, and to inspection. (It is probably to the interest of the West also to prevent the Federal Republic from acquiring an independent nuclear capability. But this should not be advertised.)

The proposed build-up of NATO conventional forces and related changes in U.S. and NATO military doctrine undercut certain of the objections raised previously by the U.S. to various proposals, such as the Rapacki plans, to limit nuclear armaments in Central Europe - although the denuclearization of all of Germany remains wholly unacceptable for both political and military reasons.

The Soviet Union and the Western atomic powers have a common interest in: (a) restricting membership in the "nuclear club"; (b) reducing the danger that atomic weapons will be fired by mistake or without authorization; (c) reducing the danger of a quick, semi-automatic, or unconsidered, escalation of hostilities.

The West

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The West has a great interest in reducing the danger of surprise attack.

A regional arms limitation agreement, with adequate inspection to assure compliance, even though it does not embrace any part of the Soviet Union or the U.S., would be useful as a trail-breaking project in the broader field of disarmament.

THE ARGUMENT - POINT BY POINT, IN BRIEF:

1A. The ceiling on external forces is intended to preserve an equilibrium on the central front so that neither side could attack with prospect of quick success. It should be high enough to preserve, beyond question, the NATO complexion of the forces stationed in the Federal Republic. To withdraw most external forces, leaving national forces of the Federal Republic and East Germany (and Poland and Czechoslovakia) confronting each other, would be risky.

Neither initially nor at any later stage specified in the initial agreement should the ceiling be so low as to compel a substantial reduction in American forces stationed in Europe. A later-stage ceiling requiring the redeployment of, say, one U.S. division to France and another perhaps to Italy, provided

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provided suitable arrangements for stationing them in those countries could be made, might be acceptable.

In preserving an equilibrium, due weight must be given to the indigenous forces in Central Europe. The ground forces of Poland, Czechoslovakia, and East Germany are estimated to total 430,000 men, apart from militarized security forces, reserves, etc. These three countries are estimated to have approximately 63,000 men in their air forces, which are equipped chiefly with fighter planes. These ground and air forces are much larger than either the present or the presently-planned forces of the Federal Republic. Even if the armed forces of Belgium, the Netherlands, and Denmark are counted as part of those in Central Europe, the advantage in numbers remains with the combination of Poland, Czechoslovakia, and East Germany--without counting Hungary.

As a practical matter, however, the military forces of the Federal Republic (with or without allowance for further expansion beyond the 12 divisions now planned) could safely be regarded as an offset to those of Poland, Czechoslovakia, and East

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and East Germany. Indeed, given the doubtful reliability of the latter forces in an armed conflict with NATO, as distinct from Germany, (and of the East German army in a conflict with the Federal Republic), the West German forces might safely be regarded as more than an offset.

If possible, the ceiling on external forces in Central Europe should be at equal height on both sides of the Iron Curtain. For example, if the western ceiling should be put at 14 non-German divisions stated in Germany, the eastern ceiling should be the same number of Soviet troops stationed in East Germany, Poland, and Czechoslovakia. (The Soviet Union now has 24 to 26 divisions in East Germany and Poland, and none in Czechoslovakia.) In reality, this is unlikely to be negotiable, although Khrushchev ought to be willing to make some concessions here in return for a limitation on nuclear armaments and for a non-aggression pact. All factors considered, it probably would not be unsafe for the West to yield to a somewhat higher ceiling on the eastern side. Thus the initial "freeze" might specify: (a) a Western level which would permit the contemplated substantial reinforcement of U.S. and French forces in Germany; and (b) an

Eastern

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Eastern level which would allow the Soviets to maintain in Central Europe the forces they had there before the Berlin crisis. At an agreed later stage, we perhaps could afford to withdraw 2 divisions if the Soviets would withdraw 4 or 5.

1B. A ceiling on indigenous forces has been partly covered in the section above. It is much less important than a ceiling on external forces.

2A. Prohibitions on manufacture and possession of nuclear warheads. This has been covered in the general argument above. It may be added, however, that to apply these prohibitions solely to the Federal Republic (or to the "two Germanies") would be invidious.

As further reassurance against clandestine transfer of nuclear warheads from the U.S. to the Germans or their seizure by the latter, the Soviet Union might be kept informed informally about new and improved methods being developed by the U.S. and SACEUR for keeping these warheads under firm control.

2B. Prohibition of MRBMs. This harmonizes with the present U.S. view that the MRBM capability of NATO on the central front should be sea based. How the Soviets would

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regard it, in view of their reported MRBM emplacements in Poland and Czechoslovakia, requires exploration.

2C. A Denuclearized Zone. As NATO's conventional capability is built up, reliance on tactical nuclear weapons to cope with an attack by the Soviet conventional forces already deployed in Central Europe becomes less and less necessary. If a reasonable balance of conventional forces on the central front can be achieved and maintained, there will be no need for NATO to use tactical nuclear weapons in the initial phase of an armed conflict, unless the Soviets use them first. Indeed, an exchange of nuclear tactical blows might not favor NATO, while it would certainly inflict grave damage on Europe.

Furthermore, it is questionable if tactical nuclear weapons could be used by the West without invoking a reply with Soviet strategic weapons. Khrushchev has told various visitors he relies on the big warheads - that the small ones are too expensive. Nevertheless, the Soviets are believed to have some tactical nuclear weapons. Where they are stored

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is not known but there appears to be some reason to think that most are kept in the Soviet Union.

It is not desirable to store tactical nuclear warheads in extreme forward positions where they might be quickly engaged, over-run, or used in the first minutes of a local action to avoid their capture or destruction by the enemy.

In the light of these and related circumstances, a completely denuclearized narrow zone in central Europe becomes not only feasible but desirable from the Western as well as, presumably, the Soviet viewpoint. This zone should not be so wide as to strip NATO of an effective tactical nuclear capability. NATO forces which know how to use these warheads should be kept on the central front. And the warheads should be kept where they can be brought into use promptly after a considered decision to use them.

There are also special political and psychological reasons why the limits of a completely denuclearized zone should be stated in miles or kilometers and should not extend to the western boundaries of the Federal Republic. Nothing should
be permitted

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be permitted which tends to separate the Federal Republic from NATO or to exempt it from the hazards implicit in the storing of tactical nuclear weapons within its domain.

Beyond this, there are difficulties in preventing the clandestine storage of the smaller nuclear weapons. Inspection in the denuclearized zone should be thorough - even so it probably could not be made "fool-proof". The type of free wheeling and intensive inspection needed would be more feasible, and probably more acceptable to both sides, in a narrow zone than in a wide one.

3A. Inspection in Central Europe. As this would not extend to any part of the Soviet Union, it might well be acceptable to Khrushchev. Moreover, his anxiety about West Germany's potential nuclear capability might well lead him to regard inspection as desirable in this case. The Soviets proposed both limited ground inspection - by teams at important railroad and road junctions, and at ports - and limited aerial inspection at the conference (of experts) on surprise attack in November-December, 1958. The Norstad

Plan

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Plan would go even further. But even the more limited Soviet inspection proposals of three years ago would give both sides a considerable measure of security against surprise attack on the ground. They would practically assure detection of any gross violations of the ceilings on conventional forces and probably would enable us to pick up MRBM sites, which are hard to conceal.

3B. Inspection in the Denuclearized Zone. Here again the Soviets might see virtue in inspection, even of a thorough and free-wheeling type. The view that there is no way of detecting concealed warheads may require critical re-examination when applied to a limited forward zone. There is no point in keeping nuclear warheads in a forward area unless they are available for use on almost instant notice. Aerial inspection might well disclose storage places as well as missile sites. Ground inspection would be aimed not only at storage places but at delivery systems and methods, within the military, of handling nuclear warheads and controlling their use.

Although

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Although such inspection might not be fool-proof it might well persuade the Soviets that any substantial effort at concealment would involve considerable risks.

As an alternative, it has been suggested that we rely on informal understanding, or parallel declarations, by the major powers - in either case without inspection. Such a course would breach a policy essential to the security of the free world as long as its adversaries preserve closed societies: that inspection and control must go hand in hand with every limitation on armaments.

4. The reasons for accepting as final the Oder-Neisse line have been advanced too often to require elaboration here.

5. A Non-Aggression Pact has long been advocated by the Soviet Union. The United States has generally opposed such a pact as meaningless. But, unless it should lull the free world into deeper complacency, such a pact, even in simplest form, could do no harm. Khrushchev could advertise it to the Soviet and bloc peoples as a diplomatic victory (in return for which we would expect tangible concessions from him).

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Under the plan outlined in this paper a non-aggression pact could well be the chief instrument in putting limits on forces and armaments in Central Europe, with inspection - to the advantage of both East and West.

A paper by the Assistant Legal Adviser for European Affairs, dated August 8, 1961, shows how a non-aggression pact might be drafted so as to minimize recognition of the East German regime, thus surmounting a political obstacle from the viewpoint of the West.

TWO RELEVANT POINTS.

The plan outlined herein is, it is believed, reversible in the event of violations by our adversaries. It would leave us with all the options we have now or expect from the proposed NATO build-up and expanded U.S. military program.

At the same time it is a plan which might be preserved in major part even in the event of a limited clash in Europe. For example, in such event, we might intimate to the Soviet Union that we would not introduce nuclear warheads into the battle area so long as they did not reinforce their conventional forces

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forces in Central Europe. Under some circumstances that might prove a useful brake on escalation of hostilities.

POLITICAL PROBLEMS INVOLVED.

It is recognized that this plan would present political problems within the Western alliance. But it is believed that these should prove manageable, in view of the net gains which the plan would hold for all.

This plan would not, of course, satisfy advocates of a disarmed or neutral Germany. Some "neutralist" leaders might regard it as too restricted, especially in contrast with the sweeping (if usually propagandistic and often empty) proposals which the Soviet Union so easily spawns. Care would have to be taken to keep the negotiations out of the United Nations.

However, even though less dramatic and sweeping than some governments would like, this plan might be regarded by many of them, including some of the Soviet satellites, as "a start in the right direction." In major outline, it probably would please some of our smaller allies and such sophisticated neutrals as Sweden.

The development

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The development of this plan, in all its details, and its negotiation with all our allies would require considerable time, in view of their sensitivities about regional disarmament. Its negotiation with the Soviet Union might well be assigned to a Four-Power Commission on Central Europe, which might be set up in the course of negotiations arising from the Berlin crisis.

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September 15, 1961

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MEMORANDUM

SUBJECT: PARALLEL PEACE TREATIES

1. Agreements with the USSR in prospective negotiations might be registered within the framework of either:

(a) A package agreement on Berlin, Germany and European security. We would then not strongly object to a separate Soviet treaty with the GDR, provided it were consistent with the agreement.

(b) Parallel peace treaties: The Western powers would propose to conclude -- and would invite the USSR and other states that had been at war with Germany to join -- a pre-unification "interim peace agreement" (or treaty) with the FRG, reflecting the substantive positions that would have been included in a package agreement under (a). There would be an informal understanding that the USSR would conclude an identical treaty with the GDR. We would still try to discourage other states, insofar as possible, from signing the Soviet treaty with the GDR.

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2. Although the parallel peace treaty approach would probably be the more negotiable vis-a-vis the Soviets, it would pose serious problems for us:

(a) It would be more troubling to the Western countries, and particularly the West Germans. The formal recognition of the right of the USSR and the GDR to conclude a separate peace treaty would be generally considered as a major concession to the Soviets.

(b) Our ability to discourage other states from signing a peace treaty with the GDR and from according it de jure recognition would be correspondingly reduced.

(c) It would be more difficult to deal with the problem of European security in the context of parallel peace treaties than in the context of a package agreement without apparent discrimination against Germany.

This suggests that the parallel peace treaty approach should not be an opening position but should be held in reserve, for use in case it becomes clear that only in this way can we reach acceptable agreements which could not otherwise be secured.

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3. The use of the parallel peace treaty approach would present in heightened form the two major tactical dangers associated with any negotiation, and planning for such use would have to take account of these dangers:

(a) The danger that premature exposure of a reserve position will prevent its effective use in bargaining for corresponding concessions. Exposing the parallel treaty approach too early might so commit us to it that we would wind up with the worst of both worlds: parallel peace treaties, without the kind of effective Berlin agreement we want in return.

(b) The danger that falling back through successive positions in a formal public negotiation may tend to make the eventual outcome look like a Western defeat. This is particularly true of the parallel peace treaty approach, since it is not readily envisaged within the framework of the presently proposed allied opening position (revised Peace Plan).

4. To avoid these dangers, private discussions with the Soviets may be desirable before formal negotiations. If and only if these discussions indicate that agreement cannot otherwise be secured should the parallel peace treaty be injected into the discussions. If private agreement was reached on this basis, the

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parallel treaty approach could then be put forward as our opening public position, thus avoiding the appearance of a major retreat in public negotiations.

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