

NAVO SECRET

19th September, 1961

NOTE FOR THE SECRETARY GENERAL

Re: Considerations on Ambassadorial Steering Group's draft instructions to SACEUR

It seems to me that the difficulties we have come up against hinge on the exact purport of the "special responsibilities" which the three Western Powers claim to have in respect of Germany and Berlin. I submit that these "special responsibilities" can only refer to the immediate consequences of the fact that the 3 Powers are vested with certain juridical rights vis-à-vis Russia. Therefore, any such negotiations or action vis-à-vis Russia as are based on the interpretation, purport or validity of these rights can only be carried out by the 3 Powers in question. However, beyond this point there can be no more question of "special responsibilities", unless in the context of those which may have been specifically recognised or delegated to them by NAC. Lacking such a formal recognition or delegation no "special responsibilities" can be invoked vis-à-vis NAC to justify any decision involving the Alliance as a whole.

2. This fundamental point has been largely lost to view in the past, as a consequence of a number of factors. It happens that the 3 Western Powers in question identify themselves with the same 3 powers which NAC formally recognised as having a special position in the field of military planning, i.e. by setting up the Standing Group. Thus initiatives have been

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taken by the 3 Powers without their probably pausing to consider whether they were taking them in the name of the "special responsibilities" in respect of Germany-Berlin, or in the name of their membership in the Standing Group. A much more serious cause of confusion originated in the fact that because of their peculiar juridical standing in matters concerning Germany ~~and~~ ^{because of} other practical considerations (such as the difficulty in reaching ^{in NAC} a working agreement on any other formula), NAC has actually delegated to the 3 Western Powers, in the past, the authority not only to negotiate on matters of actual substance, but indeed to decide also on the substance of what should be negotiated; and this even though there could be no doubt that the substance involved the interests of one and all of the members of the Alliance.

3. All of this has brought about the progressive deformation of the position of the 3 Powers vis-à-vis the Council. This situation has recently been further complicated by the accession of a German Representative to the Ambassadorial Steering Group, the latter having a clear tendency to evolve from a steering group at Ambassadorial level to a body taking decisions at government level.

4. I believe that the cause of the present difficulties arising in connection with "Live Oak" and other similar plans, stems from the fact that indeed neither the original 3 Western Powers, nor today the 4-Power Ambassadorial Steering Group, actually had the right to take upon themselves the initiative of asking directly the NATO military authorities to draw up any such military plans. All they could have done was to take the initiative of suggesting, and if need be recommending, to NAC that the latter ask the military authorities to draw up such

plans. Until this point is cleared and unless the 3-4 Powers accept 100% this point of view, I am beginning to believe that there is no way of getting out of the present difficulty through simple search of language. No amount of drafting niceties could in fact cover up this fundamental issue on the eve of events which might culminate in an atomic war.

5. If the above considerations are correct, and if the 3-4 Powers recognise them as such, a practical solution can easily be found. As far as procedures, the initiative of submitting a draft to NAC could appear as either originating from the 3-4 Powers or from the Secretary General himself. As to the contents of this draft, I suggest:

- (a) the document should ignore the existence of "Live Oak" (which, if my analysis is correct, was set up as a consequence of the 3-4 Powers exceeding their powers). Indeed, henceforth, "Live Oak" should be considered as non-existent;
- (b) the difficulties emerging from this position might be overcome by an appropriate formula indicating that NAC "are informed" of, or have "actually noted", the existence of a number of plans which the military authorities have drawn up in view of a number of possible eventualities (the "catalogue" mentioned by the French). What the Council now asks is that the military authorities review these plans in the light of present circumstances giving at the same time the necessary guidance. This guidance could be on the lines of the wording contained in paragraphs 6 and 7 of the draft of September 15th ("General Instructions" "Additional Military Plans").

This presentation would "normalise" the situation and bring procedure back to its proper tracks. I fully share your views that any alternative should be clearly understood by the 3-4 Powers as implying that their initiative is likely (an understatement) to be considered by the other 11 members as not involving their responsibilities, with all the extremely dangerous consequences one can only too easily envisage;

- (c) this procedure still leaves open the question of the measures in which the Supreme Commanders should reveal the details of their plans, and to whom. This is a matter for further consideration.

6. The next problem will be the one of how to decide when "plans" become "authorised action". I do not propose to comment on this aspect, because my own thoughts about it are not yet clear.

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