

DRAFT

2nd September, 1961.

The draft instructions to General Horstad are considered to be "planning instructions". They have been addressed to General Horstad by the governments of France, the UK and the US joined by the government of the Federal Republic of Germany but two points are at stake.

1. General Horstad is called SACMUR (see para. 4(a), first line). "The military nations within the competence of SACMUR whether within the framework of Live Oak or the larger framework of the Allied Command in Europe...". It does not seem to be proper for four governments to give instructions to SACMUR, who is an international Supreme Commander empowered by the 15 nations of the Alliance. The question to put, therefore, is the following: 'Should not these instructions be amended so as to appear at least for the time being to be instructions sent by the US government, with the approval of the three other powers, to CINCEUR, who is the supreme American commander. Although this is a very legalistic and narrow view, it might help the NATO Council to understand the exact position of the four specially interested powers.

2. There is, in the whole of the paper, some confusion about the four powers and the Alliance, and the four powers seem to speak openly as if they could speak on behalf of all the other members (see, for instance, paragraph 4(d): "The Alliance will stand ready for nuclear action at all times". Here again it seems to be unnecessary and therefore unwise to let appear in the instructions that kind of wording. Until the time happens when the NATO Council, as such, will have endorsed these instructions the four powers should amend these and the sentence, which has been quoted above, should read as follows: "The four powers will stand ready for nuclear action at all times".

Questions of Organization and Competence

General Hersted is asked to take into consideration the need to "make arrangements to establish permanent liaison with the Ambassadorial group in Washington". General Hersted is also asked to "make recommendations concerning means of assuring continuity of military control during transition from tri-partite Berlin measures to control by established NATO machinery". These two requests by the four powers to General Hersted must be considered in the light of the last sub-paragraph of paragraph 7, "while you may proceed forthwith to carry out these instructions, the governments concerned will take steps to effect co-ordination with the appropriate NATO authorities regarding those provisions which fall within NATO competence". This part of the instructions sent to General Hersted by the four powers implied clearly that the interested governments are aware of the legal situation. It seems quite understandable that they fear a change in the situation which would bring to an end what has been up till now a tri-partite responsibility as far as Berlin status is concerned, to a situation in which all NATO countries might be involved. This is the real meaning of the sentence about transition from tri-partite Berlin measures to control by established NATO machinery. In the same way, the governments concerned intend to take steps to effect co-ordination with the appropriate NATO authorities. Here, however, the wording seems questionable. Co-ordination, which is the word used, does not mean that the matter would become entirely under NATO's competence. The sentence is strongly worded, one could say, because the co-ordination which is to be sought is about "those provisions which fall within NATO competence". The real implication of recognizing the NATO competence would be far more reaching than what is implied by the of simple co-ordination with the appropriate NATO authorities.

To sum up the points to be raised about paragraph 7 (a) and (c) of paragraph 7, these are as follows:

1) Should not the draft of these sub-paragraphs be revised in order to bring about greater clarity and to avoid those doubts which have been expressed above.

2) Should not the wording be such as to establish more clearly the stages which will succeed one another, the first stage being one through which the three powers with special interests can act by themselves; the second stage being one through which the responsibility will be broadened in such a way that all NATO countries will be involved.

3) If such views were agreed by the four powers, then another question will be raised. Sub-paragraph of paragraph 7 instructs General Herriot to make arrangements "to establish permanent liaison with the Ambassadorial group in Washington". This requirement is easily understandable for everything that has to be taken care of during the first stage when the three powers, plus Western Germany, are responsible, but from the time at which the NATO Council and therefore the 15 member countries, will be involved in the situation, the role of the Ambassadorial group in Washington must necessarily end.

For all these reasons a completely new draft of paragraph 7 would seem necessary to avoid misunderstanding and to enable the NATO responsibility to be effectively implemented. On a very tentative basis the following draft is proposed:

"As regards questions of organization and of competence, the following points should be taken into consideration:

(a) The powers make arrangements to establish permanent liaison with the Ambassadorial group in Washington until transition from tri-partite Berlin measures to control by established NATO machinery will have ended.

(b) You should make recommendations concerning means of assuring continuity of military control during this transitional period.

(c) While you may proceed forthwith to carry out these instructions the governments concerned will take steps to obtain full concurrence from the appropriate NATO authorities regarding those provisions which fall within NATO competence."