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From Versailles to Baghdad: Post-War Armament Control of Defeated States

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Preface

The United Nations Institute for Disarmament Research (UNIDIR), which has been in existence since 1 October 1980, was established by the General Assembly as an autonomous institution within the framework of the United Nations to carry out independent research on disarmament and related international security issues.

The Institute's work, which is based on the provisions of the Final Document of the Tenth Session of the General Assembly, aims at:

Providing the international community with more diversified and complete data on problems relating to international security, the armaments race and disarmament in all fields, particularly in the nuclear field, so as to facilitate progress, through negotiations, towards greater security for all States, and towards the economic and social development of all peoples;

Promoting informed participation by all States in disarmament efforts;

Assisting on-going negotiations on disarmament and continuing efforts being made to ensure greater international security at a progressively lower level of armaments, particularly nuclear armaments, by means of objective and factual studies and analyses;

Carrying out more in-depth, forward looking and long-term research on disarmament so as to provide a general insight to the problems involved, and stimulating new initiatives for new negotiations.

This publication *From Versailles to Baghdad: Post-War Armament Control of Defeated States* is the result of a two year project between UNIDIR and the Graduate Institute of International Studies in Geneva. The project was initiated and coordinated by Fred Tanner of the Graduate Institute, who also edited this research report. UNIDIR would like to thank the authors who contributed to this volume.

The project and subsequent publication also benefitted from the help and advice of Chantal de Jonge Oudraat, Research Associate at UNIDIR. Pamela Thompson, intern at UNIDIR, assisted with the editing of the Volume. Anita Blétry, also from UNIDIR, was instrumental in making the manuscript ready for publication. Finally special thanks go to Martha Orange for her assistance and Eva Tanner for her support.

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UNIDIR takes no position on the views and conclusions expressed in these papers which are those of their authors. Nevertheless, UNIDIR considers that such papers merit publication and recommends them to the attention of its readers.

Serge Sur
Deputy Director, UNIDIR

Introduction

Fred Tanner

The twentieth century has witnessed many violent conflicts, among them inter-state wars and armed conflicts involving non-governmental groups. Regardless of their nature, they all eventually came to an end either through victory for one side and defeat for the other, or through stalemate. But the termination of war does not mean that the antagonistic relationship between the former belligerents has been removed. This publication looks at how former belligerents have tried to influence their opponents in the military field during the post-war period. It will limit its scope to periods following inter-state wars that have ended with winners and losers.

The purpose of this study is to examine the motivations for and the implementation of armament control measures in the construction of post-war arrangements. Post-war armament control enables the victorious parties to continue to exercise control or influence over the loser's residual military capabilities during the peace-time period after the war. As this study will show, there are various categories of post-war armament control regimes, but they all have in common that their measures are unilateral, coercive and often punitive in nature. The coercive character prevents such regimes from turning into lasting agreements on armament. This is also the reason why there is an ambiguous relationship between post-war armament control and "classic" arms control that should build mutual confidence between adversaries.

Despite the large number of armed conflicts in this century, there have been surprisingly few cases that have produced some formal armament control arrangements.There are several explanations for this. First, it is the essence of the military art to reduce the war-fighting capabilities of the opponent. In Clausewitz's terms "the aim of all action in war is to disarm the enemy." Following this rationale, the victors are not concerned with the enemy's armament after the end of a military confrontation, since most of it would be destroyed, captured or neutralised during the military campaign. Second, the nature of the war and its military outcome may not allow the victor to enforce measures on the loser's military capabilities. The Falkland/Malvinas Island War, for instance, did not lend itself to such measures, since the war was a limited one that at no stage engaged all of the military resources of the two belligerents. Despite victory, Britain had neither the military clout nor the motivation to limit Argentinean military assets after the end of hostilities. Third, the victor absorbs the loser or occupies its entire territory in the post-war period. In such cases, no control of the former enemy's military capabilities is needed. This was the case after World War II, when all of the German territory was occupied by the Allies, and the German state as well as its armed forces ceased to exist.

What are the situations that lend themselves to armament control after war? Armament control may appear attractive to victors if it represents a viable substitute for the continuation of military operations (i.e., if it assures the selective or total control of the loser's military capability *after* the end of hostilities). Such situations may occur when the war terminates before the winning side has had the opportunity to completely destroy the war machine of the loser by military means. World War I and the Second Gulf War are examples.

In the first case, the occupation of Germany would have caused heavy losses among the Allies. Furthermore, rapid termination of the war was essential, since the revolutionary turmoil within Germany threatened to escalate and spill-over to neighbouring countries. In the case of the Gulf War, the total occupation of Iraqi territory would have been inconsistent with UN Security Council Resolution 678 and would have produced uneasiness among other Arab states. Furthermore, today it is an accepted thesis that the White House was more concerned with the potential fragmentation of Iraq (in case of a military occupation) rather than about Hussein's military reconstitution capabilities. For both, the victorious Allies of the First World War and the Gulf War, armament control mechanisms represented an important element of the settlement with the defeated state.

Second, armament control may find some utility after the end of a war as a means to allow the vanquished state to engage in a calibrated reconstruction of its military capabilities. Such a process may also be referred to as re-armament control. Victors may allow the loser to gain back its lost sovereignty, albeit in a slow and controlled manner. A rearmament period can stretch over a very long time span: the control of Germany's rearmament after World War II, for example, only ceased in 1986.

Here, the use of armament control instruments are primarily of political and less of military significance. After World War II, the break-out of the Cold War dramatically changed the outlook of what to do with Germany's military potential. The Korea shock of 1950 convinced policy-makers in the West to re-arm Germany and Italy. In the first case, an elaborate re-armament control mechanism was put in place with the help of the Western European Union; in the the second, the 1947 Peace Treaty was revised to allow a substantial arms build-up.

Third, armament control can have specific measures trying to prevent the conclusion of military alliances between former allies. After World War II, for example, the former Axis Powers were explicitly prohibited from engaging in cooperation with Germany and Japan in the field of armament. Here post-war armament control assumes the role of control parameters that make military arrangements of revanchiste powers more difficult.

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The contributions in this study focus on cases of post-war armament control (or the absence of it) that result from three wars that have profoundly affected the international system in the twentieth century: the First World War, the Second World War, and the Second Persian Gulf War. Each of these wars ended asymmetrically (i.e., they all terminated with a clear victor and a clear loser), and in each case the loser was subjected to armament control measures during the post-war period.

The First World War produced the Versailles Treaty that has become a legacy of armament control enforcement. Fred Tanner explains in Chapter 1 the reasons why the Allies finally imposed coercive disarmament and armament control measures upon Germany as part of the Peace Treaty. He argues that the disarmament of Germany was

not a war objective of the Allies, but rather the result of Britain's electoral politics. The chapter also outlines the making and the implementation of Germany's disarmament and concludes that post-war armament control became a divisive issue among the Allies destabilising the post-war order.

The aftermath of World War II produced a series of peace treaties that — with the exception of Japan — all contained constraints and restrictions in the military field. In Chapter 2, Ilaria Poggiolini and Leopoldo Nuti describe the making of the Italian Peace Treaty that served as a reference for the other peace treaties and the 1955 State Treaty. They show how the elaboration of the Peace Treaty turned Italy into a test case for East-West relations and how the military clauses were the product of compromises among reluctant Allies. The case of Italy also describes how revisionist efforts by the Italian government, particularly after the signature of the Japanese Peace Treaty in 1951, finally succeeded with the outbreak of the Cold War.

In Chapter 3, Mihàly Fülöp reviews the conditions under which Hungary, Rumania and Bulgaria were subjected to military clauses. He explains how the military clauses were not relevant for the countries falling under the direct control of Stalin. Bilateral arrangements with the Soviet Union, territorial adjustments and crude military pressure were the actual determinants of the post-war period. Fülöp shows that the blatant violations of the armament control regime have been motivated by Moscow's war preparations against Yugoslavia.

In Chapter 4, Pauli Järvenpää describes Finland's evolutive relationship with the 1947 Peace Treaty stipulations. He explains why the Finns were able to procure war material (air planes and missiles) that were prohibited under the military clauses. Of considerable interest in this context are the Finnish reinterpretation efforts. This chapter reflects the problem of duration of post-war constraints; it took Finland until 1990 to finally free itself from all the military restrictions.

Dankward Gerhold reveals in Chapter 5 the various projects that finally led to the re-armament control of Germany starting in 1954. Due to the Cold War, German manpower was urgently needed for the West's common defence. Gerhold analyses the peculiar situation where an alliance treaty (Western European Union) included armament control regulations among partners. This chapter also shows that post-war armament restrictions can be used for the preservation of the victors' technological edge in the post-war period.

Takako Ueta explains in Chapter 6 why Japan has not been exposed to contractual armament control measures after World War II. The case of Japan shows that unilateral measures can act as a substitute to armament restrictions imposed by victors, provided that these measures are formally enshrined in the constitution. The chapter reveals a problem familiar to all architects who attempt to construct a post-war order: what are the legitimate minimum military requirements for national defence of a defeated state?

Heinz Vetschera presents in Chapter 7 the fate of the military clauses of the State Treaty that acts as a substitute for a peace treaty between Austria and the Allies. He indicates the link between the State Treaty and the 1947 Peace Treaties and elaborates on the domestic struggle in Austria over the interpretation of the military clauses. As in the case of Finland, Austria had to wait until the end of the Cold War to eliminate the armament limitation stipulations.

In the final chapter, Johan Molander deals with the implementation problems of the selective disarmament clauses that were imposed on Iraq after the Gulf War. Many questions raised in Fred Tanner's chapter on Versailles reappear. What kind of coercive measures can the Allies or the United Nations use in case of non-compliance of Iraq? Will the discriminatory measures have a similar fallout on post-war stability as it had in the Versailles period? This chapter also shows a new dimension of post-war armament control: the normative interactions between existing arms control regimes (such as the NPT) and the measures adopted as part of a war termination process. Johan Molander confirms in his chapter that one of the weak points of the post-war armament is the question of termination, in particular when the regime foresees long-term monitoring.

Chapter 1
Versailles: German Disarmament after World War I

*Fred Tanner**

Introduction

When on 11 November 1918, the canons of the Great War fell silent, the German armies had been soundly defeated. But the German armed forces, although weakened through revolutionary turmoils, were not dissolved and remained combat ready. Their withdrawal to Germany from forward positions in the last stage of the war was carried out in a disciplined and orderly fashion. Moreover, the military-industrial area in the Ruhr was not destroyed and remained under German control and administration. This would have allowed the still functioning General Staff Organisation to prepare for rapid reconstitution of both forces and armament.

The Allies sought to respond to the actual and potential German military threat through coercive disarmament and armament control measures. The implementation of such clauses can be divided into two phases. First, the armed forces of the defeated states (Germany, Austria, Hungary and Bulgaria) were disarmed, and then, in a second phase, they were kept under strict armament control rules. Both phases were prescribed by the Peace Treaties of 1919 and 1920. The Versailles Peace Treaty with its military clauses mandating German disarmament, has been used as the model for the other Peace Treaties.

This chapter will examine the making and implementation of the military clauses of the Versailles Treaty and its ramifications for post-war stability. In the first part, the role and importance of armament control will be explored with regard to the Armistice and the Peace Treaty. It demonstrates that disagreements among the Allies over armament control issues reflect more profound differences on the role Germany should have played in the post-war order. In the second part, the chapter outlines the major characteristics of the military clauses and the intrusive verification system. The last part shows the problems of implementation of the Versailles regime given the reluctant cooperation of the German military.

The Making of the Versailles Disarmament Regime

War objectives

During the First World War, the disarmament of Germany was not among the Allies' objectives. The thought of disarming a defeated power in the aftermath of the war had neither been pronounced publicly nor was it part of the secret agreements of the *Entente*.[1] Rather, the preoccupation was with territorial questions and reparations.

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* Claude Wild and Rolf Tanner assisted in the research for this study.

[1] H.W.V. Temperley, (ed.), *A History of the Peace Conference of Paris*, London, Hodder and Stoughton, 1920, pp. 166-173.

In the last stage of the war, the Allies found themselves in substantial disagreement over the question of how to deal with Germany. France, but to a lesser extent also Great Britain, pushed for the total destruction of the German armed forces and a military occupation of Germany. The American President Wilson, on the other hand, proposed a "peace without victors or vanquished," suggesting that the asymmetrical outcome of the war should not be exploited by the victors. Wilson's objectives allowed a German surrender on terms that fell far short of the war aims of both Lloyd George and Clemenceau.[2]

Only with the formulation of his Fourteen Points on 8 January 1918, did President Wilson introduce disarmament as one of the post-war aims. Point Four reads:

> "Adequate guarantees given and taken that national armaments will be reduced to the lowest point consistent with domestic safety."

This point implied, however, that disarmament should be reciprocal rather than unilateral, applying to all states and not only to Germany. The early termination of the war helped to save important losses on both sides, but confronted the Allies with the problem of the German military machine. It had not been crushed, and most of its forces, including command, control and communication, survived the war more or less intact.

Limited Disarmament Through the Armistice

Two formal stages of war termination can be distinguished at the end of World War I: the Armistice of 1918 and the Versailles Peace Treaty of 1919. During the pre-armistice talks among the Allies, the concept of disarmament of German forces entered the negotiation agenda, although not as a top priority. The British and the U.S. governments favoured German disarmament as a process that would allow their own forces a timely disengagement from the European continent. The French, in contrast, opposed an early withdrawal of the Allied troops, considering it a threat to French national security. Accordingly, the French delegation under Marshall Foch consistently opposed disarmament of Germany in order to justify the continued presence of large contingents of Allied troops containing Germany. Because of French persistence, disarmament did not enter the Armistice agreement of 11 November 1918, nor did the additional obligations that were imposed on Germany when the Armistice was renewed.

The fact that Germany had to surrender a certain quantity of arms under the Armistice agreement reflects disarmament only in a limited and temporary sense; there was neither a control over the disarmament of German forces nor did there exist restrictions upon its rearmament. At this stage, disarmament measures could be understood as corollaries of the withdrawal and demobilisation process of the German armed forces.

Article IV of the Armistice requested Germany to surrender 5000 guns, half of which were to be heavy and the other half were to be field guns, 25,000 machine guns, 3000 trench mortars, and 1700 fighter and bombing planes.[3] The naval provisions were,

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[2] For pre-armistice negotiations among the Allied Powers, see Harry R. Rudin, *Armistice 1918*, New Haven, Yale University Press, 1944.

[3] See H.W.V. Temperley, (ed.), *A History of the Peace Conference of Paris, op. cit.*, p. 460.

upon British pressure, more severe and amounted to measures that had some long-term disarmament effects. All submarines, submarine cruisers, and mine layers with armament and equipment intact had to be surrendered. The battleships, battle cruisers and destroyers had to be interned in neutral or Allied ports.

Germany complied with most of the Armistice's stipulations. Irregularities or violations of the Agreement mainly resulted from the chaotic situation Germany found itself in immediately after the end of the war. The revolutionary turmoils also shook the armed forces and made a smooth implementation of the Armistice, even for a bona fide government, very difficult.

Despite these adverse conditions, Germany fulfilled the military clauses of the Armistice more or less in due time. By January 1919, all requested armament and materials were transferred to Allied control. According to some authors, it was precisely the German ability to comply with the Armistice stipulations that gave rise to concern about Germany's still prevailing military strength.[4]

Disarmament Issues During the Versailles Peace Conference

After the Armistice had entered into force, the interlude struggle began over the question of how to cope with the German military might. The Anglo-Saxon countries perceived Germany as soundly defeated and argued that there was no imminent danger of German revanchisme. On the contrary, both the British and the Americans feared that a severely reduced German military force would not be able to stem the tides of the Bolshevik revolution, which spilled over into many German cities in the Spring of 1919.

Nevertheless, both the British and American were in favour of disarming Germany. The British government under Lloyd George was engaged in an electoral battle on the platform of abolishing the large British conscript army. For this purpose, an unilateral German disarmament did represent an important political asset, as it would have allowed the British to demobilise their troops on the continent.[5] Furthermore, Lloyd George was also suspicious about the French imperial plans in Europe. A disarmed Germany would no longer legitimise the French arms build-up and the preservation of large standing French forces on the continent.[6]

As the British lobbied for German disarmament because of electoral reasons, President Wilson introduced the concept of German disarmament as punishment, "telling the Supreme Council on 12 February that the world had a moral right to disarm Germany, and to subject her to a generation of thoughtfulness."[7] The French, and to some degree also the Italians, strongly believed in German revanchisme. For them, disarmament of Germany alone was not a sufficient security guarantee. It represented only one instrument among others to cripple Germany's power.

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[4] W. M. Jordan, *Great Britain, France and the German Problem 1918-1939*, London, 1943, p. 131.

[5] L. S. Jaffe, *The Decision to Disarm Germany: British Policy Toward Postwar German Disarmament, 1914-1919*, Boston, MA., Allen & Unwin, 1985, p. 168.

[6] *Ibid.*, p. 173.

[7] *Ibid.*, p. 175.

Blueprints of German Disarmament

The disarmament of Germany was never an objective in itself during the Versailles negotiations. The French presented it as a corollary to the military occupation of German territory. The U.S. and Britain, in contrast, presented it as a precursor to general disarmament of the League. For this reason, the Allied negotiations on disarmament were incoherent and randomly conducted. For a long time, the Versailles Peace Conference failed to address basic principles of disarmament such as:

- What was the purpose of German disarmament?
- Should German disarmament be temporarily limited or permanent?
- Should the disarmament regime constitute a separate agreement or become an integral part of the peace treaty? and
- Should the disarmament regime be negotiated with the Germans or simply be imposed?

The first principles of German disarmament were spelled out by Marshall Foch on January 1919 in a memorandum that addressed the question of security guarantees of the Rhine border. The memorandum argued that the German military machine relied on three factors: the size of the armed forces, the war material, and the General Staff organisation. Accordingly, Foch's disarmament scheme focused on those categories. In particular, the memorandum listed the items that were subjected to arms control measures:

- Budget for military expenditure;
- Budget for industrial investments;
- Organisation of General Staff;
- Size of armed forces and laws of conscription;
- Existing war material;
- Arms procurement potential in the whole of Germany; and
- Military doctrines.[8]

In the first phase after the war the Supreme War Council was to decide on post-war disarmament and the construction of the Versailles peace order. Major disagreement emerged within the Council over the question as to whether the disarmament regime should be included in a renewed Armistice agreement or in a peace treaty. The first option would leave the disarmament stipulations *limited in time*, while the latter would enshrine them in a *permanent treaty framework.*

President Wilson favoured disarmament as a "part of an early peace rather than as revision of the Armistice term".[9] He suggested a Preliminary Peace Treaty that would settle the military questions separately from the other terms of a peace settlement. The French, on the other hand, pushed for the inclusion of disarmament in a comprehensive

[8] F. Berber, (ed.), *Das Dikat von Versailles, Enstehung-Inhalt-Zerfall*, Essen, 1939, vol. I, p. 26.

[9] L. S. Jaffe, *The Decision to Disarm Germany: British Policy Toward Postwar German Disarmament, 1914-1919, op. cit.*, p. 175.

peace treaty because they feared that if Germany disarmed and the Allies demobilised the remaining terms would have to be *negotiated* with Germany.

The Loucher Committee, installed to solve the differences, came up with a blueprint of disarmament for Germany that for the first time also included *intrusive verification measures*. The inspection and supervision regime suggested by the Committee was conceived as an international substitute for German good faith. It should be recalled that in the early part of the 20th century verification had not yet been accepted by the international community as an instrument of arms control and disarmament. By and large, intrusive measures were perceived as incompatible with the notion of national sovereignty.[10]

The Loucher Report designed a German disarmament based on the following elements:

- Reduction of German army;
- Prohibition of weapons production;
- Destruction of the German military-industrial capacity;
- Supervision of factories by an inter-Allied control committee; and
- Strong Allied military presence at the Rhine.

Even though the Supreme Council rejected the Loucher Committee's report at first due to American opposition, it served as a reference for the disarmament negotiations during the Versailles Conference. Still, the report did not take up the suggestions of General Foch to include the control of military expenditures in the disarmament scheme. Thus, under the Versailles regime, the control of the German military spending had not been part of the control regime, a fact that Germany exploited by investing heavily in the military R&D sector.

Major Issues of Allied Disagreement

Prohibition of Compulsory Conscription and Reduction of Manpower

There was a long, fierce Franco-British battle over the question of whether future German forces should be based on a volunteer or a conscript army.[11] Both countries feared that the method of recruitment that was to be decided for Germany would serve as a precedent for their national armed forces. The British delegation —arguing for a volunteer army— finally prevailed over the French in exchange for concessions to the French regarding the future size of the German army. Marshall Foch convinced the Allies to agree to substantial cuts in German manpower. The Allies first contemplated a ceiling of 400,000 men. During the negotiations, this ceiling was successively reduced to 200,000 men, 140,000 men, and finally to 100,000 men.

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[10] On this topic, see R. D. Burns, "Supervision, control and inspection of armaments: 1919-1941 perspective," *Orbis*, Fall 1971, pp. 943-952.

[11] M. Salewski, *Entwaffnung und Militärkontrolle in Deutschland, 1919-1927*, München, R. Oldenburg Verlag, 1966, p. 32.

The British gave in to French pressure because of the conscription issue, but also because German landpower did not represent a priority to them. What mattered was that the German navy could no longer pose a threat to British naval supremacy, a fact already taken care of during the war and through the Armistice agreement.[12]

Supervision and Control Regime

The question of how long the verification regime could be upheld in Germany dominated the disarmament debate from the very beginning. Two issues were at the forefront of the debate: First, should verification be limited to the actual implementation phase of the disarmament clauses only, or should it assure continued compliance of Germany for an undetermined period? Second, what measures should be taken if Germany would not comply?

With regard to duration, the French resisted the idea that German disarmament would be temporary. Indeed, the French Prime Minister refused to sign the Peace Treaty if the disarmament clauses were to be limited in time.[13] The Americans and British, on the other hand, argued for an Inter-Allied Control mechanism on a temporary basis. The U.S. delegation knew that a permanent control mechanism, implying a permanent commitment of U.S. military personnel abroad, would be rejected by the U.S. Senate. Furthermore, both the Americans and the British were aware that a permanent control system would be incompatible with the eventual entry of Germany into the League of Nations. The standoff was solved with a compromise. The French agreed to a time limit for the *control* activities, but, in exchange, the Allies accepted the French proposal that the League would have the right for a long-term *supervision* of Germany.

The compliance issue centred around a French proposal intended to introduce mandatory verification measures undertaken by the Council of the League in case of German violation of the military clauses. President Wilson opposed the automaticity clause and suggested a formulation allowing the Council a larger margin of manoeuvre in situations of non-compliance. This proposal was agreed upon by the Council. It reads:

> "as long as the present Treaty remains in force, a pledge will be taken by Germany to respond to any inquiry that will be deemed necessary by the Council of the League of Nations."[14]

The French delegation was able to secure a success in the compliance debate. They were able to assure that the decision-making of the Council in the matters of German non-compliance questions would be based on a *majority rule*. This procedure secured the French a dominant position over German disarmament issues, in particular after the American withdrawal from the League.

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[12] All German submarines had to be handed over to the Allies, including those still under construction. See H.W.V. Temperley, (ed.), *A History of the Peace Conference of Paris*, vol. II, p. 141.

[13] M. Salewski, *Entwaffnung und Militärkontrolle in Deutschland, 1919-1927*, *op. cit.*, p. 31.

[14] A. Tardieu, *Truth about the Treaty*, Indianapolis, Bobbs-Merrill, 1921, pp. 139-140.

General disarmament

During the tough deliberations about the post-war order, the French insistence on the security dilemma with Germany prevailed over the Anglo-Saxon approach to disarm Germany and then proceed to a general disarmament process. The latter approach would have allowed Germany to be reintegrated into the international community. The French dogmatic approach of "security first, disarmament later" eventually blocked the League of Nations during an entire decade in its efforts to start negotiations on general disarmament. Thus, the linkage between security and disarmament that dominated the entire history of the League of Nations had been conceived by the French during the Versailles negotiations.

The French opposition to general disarmament did not hinder President Wilson from making a last minute effort and integrate a negotiation mandate for general disarmament into both the main text of the Covenant and the disarmament part of Germany. Article 8 reads Wilson's Point IV in a slightly modified form:

> "the members of the League recognise that the maintenance of peace requires the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations."

Furthermore, the preamble of Part V of the Covenant, stipulating Germany's disarmament, hints that Germany's unilateral disarmament must be understood as a precursor of an universal disarmament process:

> "In order to render possible *the initiation of a general limitation of armaments of all nations*, Germany undertakes strictly to observe the military, naval and air clauses which follow."[15]

Protagonists for general disarmament tried to portray the preamble as a binding mandate to all parties to the Covenant to begin negotiations on reciprocal and general disarmament.[16] Several arms control agreements of the period after World War II contain similar stipulations in their preamble that have led to disputes as well.[17]

The Disarmament of Germany: Terms of the Treaty

Overview

The peace settlement, signed a half a year after the Armistice, was characterised by an elaborated and coercive mechanism of German disarmament that was enshrined into the Versailles Peace Treaty. Its duration was unlimited. It imposed ceilings for troops and weapon systems, outlawed some weapon types altogether, regulated the military

[15] Italics added by author.

[16] W. Rappard, *The Quest for Peace since the World War*, Cambridge, Harvard Univ. Press, 1940.

[17] The preamble of the Partial Test Ban Treaty, for instance, describes the agreement as a first step toward a comprehensive test ban.

procurement and the industrial sectors associated with it, redefined the military organisation of the German armed forces, and created demilitarised zones. Control and supervision were assured by an inter-Allied military committee that conducted on-site inspections according to the principle "anytime, anywhere, without the right of refusal".

The German input to the making of the Versailles regime was virtually nil, since Germany was not allowed to participate at the Peace Conference. However, a German delegation was allowed to articulate its view of the Peace Treaty. Regarding the disarmament clauses, the German delegation argued that it could only accept them under the following conditions:

- Germany has to be admitted to the League of Nations;
- Other parties to the League have to reduce their armaments and abolish conscription within two years; and
- No international supervision of German disarmament.[18]

The Allies decided not to enter into negotiations with Germany over these conditions. This stalemate was the basis for persistent German efforts to revise the military clauses throughout the duration of the Versailles regime.

Formal Aspects of the Disarmament Regime[19]

German disarmament is covered by Part V of the Treaty, containing the military, naval and air clauses from Article 159-213.

1. *Troop ceiling, formations, and command structure* (Chapter I):

The first chapter not only imposed the troop ceilings of 100,000 men and dissolved the Great German General Staff, but it also clearly prescribed the troop formations and force structures allowed under the disarmament regime. Article 160 stipulates that:

> "the German army must not comprise more than seven divisions of infantry and three divisions of cavalry."[20]

This stipulation tried to eliminate the temptation of the German militaries to create a cadre army with the 100,000 men that, in turn, would allow the field deployment of a large number of low-readiness combat divisions.

2. *Armament, Munitions and Materials* (Articles 164-172):

In the second chapter, the Treaty limits the number of guns, machine guns, trench-mortars, rifles, and the stock of munitions. It gives Germany time until the 31 March

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[18] See A. Luckau, *German Delegation at the Paris Peace Conference*, New York, Columbia Univ. Press, 1941.

[19] For the text of Part V see Annex I.

[20] For the text of the portions of the Versailles Treaty dealing with German disarmament, see T.N., Dupuy and G. M. Hammerman, (eds.), *A Documentary History of Arms Control and Disarmament*, T.N. Dupuy Associates, New York, 1973, pp. 82-104.

1920 to reduce the limited items to the maximum allowed ceiling levels. Through very detailed and somewhat complicated tables, the Treaty allocated restricted items to the infantry-and cavalry divisions. The surplus of weapons and munition must be "surrendered to the Principal Allied and Associated Powers to be destroyed or rendered useless."[21] Future manufacturing of the restricted weapons and munition will be allowed only in Allied-approved factories. This meant that many factories had to be closed down or converted into exclusively civilian production sites.

The Treaty prohibited, in absolute terms, the following activities:

- Import and export "of arms, munition and war material of every kind(...);"[22]
- The import, production and use of chemical weapons; and
- Import and production of tanks and "armoured cars."[23]

3. *Recruiting and military training* (Chapter III):

This chapter outlawed universal compulsory military service and prescribed the modalities for a new voluntary army —including mobilisation, instruction and exercises. Relevant for later compliance debates was the prohibition of German nationals from going abroad for military training.

4.*Other restrictions and prohibitions:*

In addition to the restriction on the army and arms production, Germany had to eliminate

> "all fortified works, fortresses, and field works situated in German territory to the west of a line drawn fifty kilometres to the east of the Rhine".

The naval clauses prohibited Germany from having any submarines. They were only allowed a small number of surface combat ships.[24] The air clauses stated that Germany was not to have any military or naval air forces.

Mechanisms of Verification

Structure of Verification Regime

Under Section IV of Part V, the Peace Treaty establishes the instruments of control and supervision for the disarmament regime. For each military branch —the army, air force and navy— an Inter-Allied Control Commission (IACC) was set up. Due to French insistence, the verification regime was *remarkably intrusive*. It draws its authority from Article 204:

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[21] Article 168.

[22] Article 170.

[23] Article 171.

[24] 6 battleships, six light cruisers, twelve destroyers, and twelve torpedo boats, see Article 181-197.

> "All the military, naval and air clauses contained in the present Treaty, for the execution of which a time-limit is prescribed, shall be executed by Germany under the control of Inter-Allied Commissions specially appointed for this purpose by the Principal Allied and Associated Powers."

Access "anytime, anywhere" was granted to the Inter-Allied Commissions of Control under Article 205, entitling them:

> "...as often as they think desirable to proceed to any point whatever in German territory, or to send sub-commissions, or to authorise one or more members to go, to any such part."

This Article gave the Inter-Allied Commissions "carte blanche" for their activities on German territory. They were able to proceed to inspections as often as they wished, at any time, and at all locations within Germany.

The Paris Peace Conference decided that the intrusive control activities of the IACC would come to an end with the completion of the disarmament process. After that point it would be up to the League of Nations to assure the supervision of continued German compliance with the military terms.

The verification activities were, thus, divided up into several phases that are outlined by Article 208:

- Collecting information about the location and quantities of all the treaty restricted items;
- Baseline inspection to verify the German information;
- Receive the delivery of surplus items;
- Supervise the destruction of surplus items;
- Identify military factories that will be allowed to continue production under supervision; and
- Supervise destruction or conversion of all other military production sites.

After the completion of the disarmament process, Article 213 provided for the long-term supervision and control:

> "So long as the present Treaty remains in force, Germany undertakes to give every facility for any investigation which the Council of the League of Nations, acting if need be by a majority vote, may consider necessary."

In contrast to the case of Iraq, where UN inspectors executed the disarmament measures, it was during the Versailles period up to the German government and not to the Inter-Allied Control Commissions to carry out the terms, such as the physical destruction surplus weapons.

Decision-Making

For the purpose of executing the control and supervision activities, the Allies set up a rather complex, hierarchical structure. The main executing agent of the verification regime was the International Military Control Commission (IMCC). This Commission was subdivided into three sub-commissions:

- Effectives (manpower);
- Armaments; and
- Fortifications.

The IMCC was under the direct authority of the Versailles Committee (Inter-Allied Military Committee of Versailles) which was responsible for the coordination of all verification activities. The Committee, headed by Marshall Foch, took a leading role in the implementation of the disarmament clauses. The Versailles Committee, at least in theory, was under the authority of a Conference of Ambassadors, a permanent institution that should have functioned as a clearing house for the governments of the Allied and Associated Powers. Finally, major policy decisions were reserved to the Supreme Council of the Allied and Associated Powers.

The hierarchical structure did not work very well in practise. During the disarmament process the IMCC gained a lot of autonomy which had severe implications for the entire implementation period. After the American refusal to join the League of Nations, French officers took over the positions reserved for the American inspectors. The decision-making procedures, based on the majority rule, gave the French a controlling interest in the Council of the IMCC.[25] Moreover, it was headed by a French General.

The German government, in an attempt to counteract the dominant position of the IMCC, consistently tried to deal directly with the Conference of Ambassadors. This practice was finally prohibited in 1922.[26] The French-biased policy of the IMCC also antagonised other Allied states —in particular, Britain. Accordingly, in 1923, the Conference of Ambassadors changed the voting procedures of the IMCC from majority to *unanimous rule*. This gave the British Officers a veto right over the IMCC activities. As a consequence,the IMCC activities slowed down considerably thereafter.

The Implementation Phase (1920-1927)

Brief Description of the Implementation Period

On-site inspections were carried out between 15 September 1919 and 1 February 1927. The first inspections can be understood as trial inspections; they were conducted at the demand of the German government even before the Versailles Treaty entered into force. The German rational was that such trial inspections could ensure that the disarmament process would not last longer than the three months envisaged in the draft of the Versailles Treaty.[27] The participating countries of the inspections were France, Great Britain, Italy, Belgium, and Japan. The United States did not send officers after the U.S. Senate refused to ratify the Covenant.

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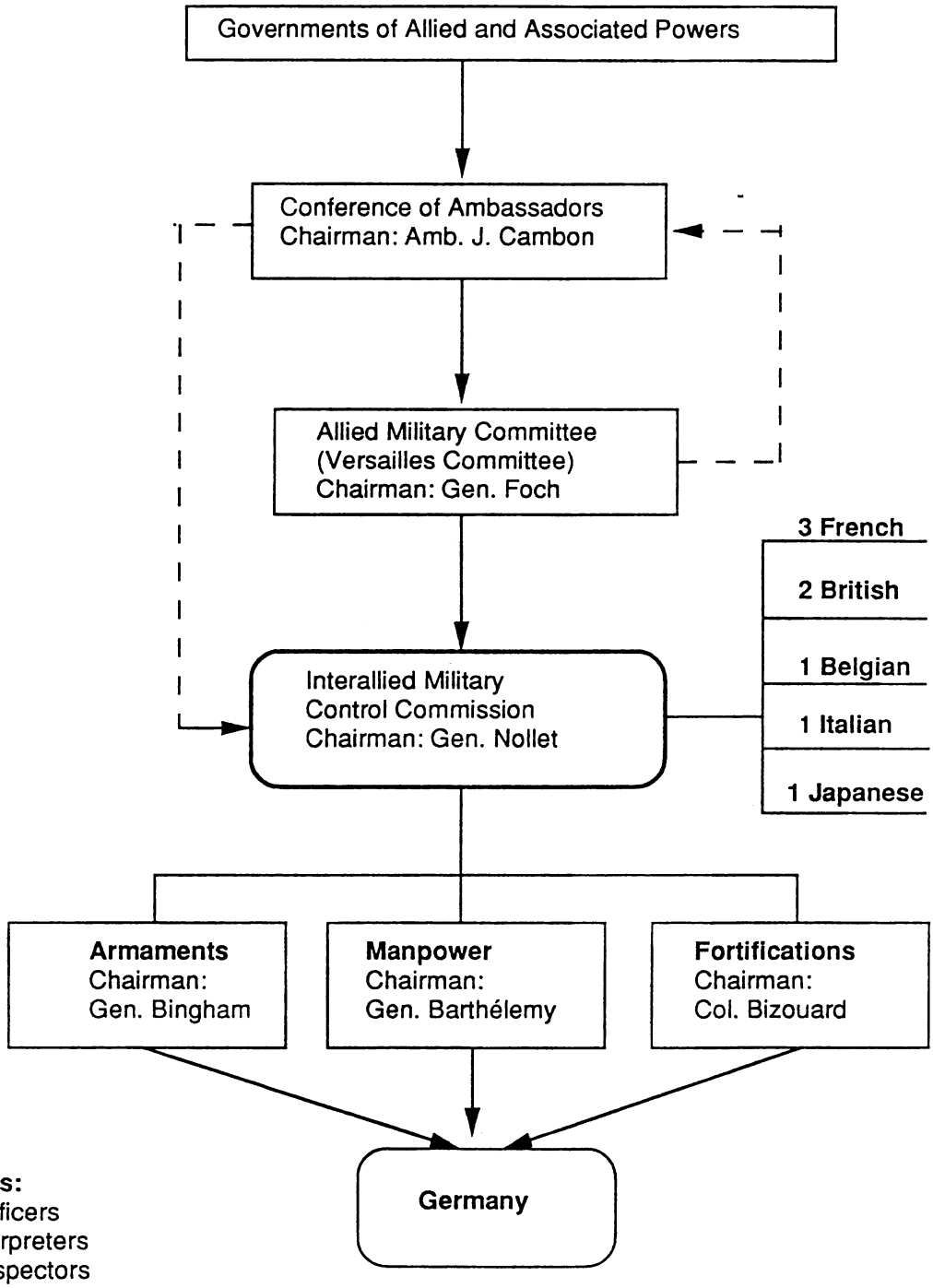
[25] The French had 4 of 9 votes, the British 2, 1 vote each was given to Italy, Japan and Belgium.

[26] M. Salewski, *Entwaffnung und Militärkontrolle in Deutschland*, 1919-1927, op. cit., 54.

[27] *Ibid.*, p. 46.

Interallied Military Control Commission (IMCC)
(1919-1927)



Statistics:
291 Officers
88 Interpreters
654 Inspectors

39 1/2 months of inspections;
33 381 controls.

Sources:
P. Roques, *Le Contrôle Militaire Interallié en Allemagne* (1927)
Handbuch zur deutschen Militärgeschichte, Bd VI, (1970)
M. Salewski, *Entwaffnung und Militärkontrolle in Deutschland* (1966)

The headquarters of the IMCC was established in Berlin. The inspections for the Army, Navy and Air Force were conducted by approximately 400 Allied officers, who in turn, were supported by another 1000 personnel. During the time of its existence, the IMCC conducted 33,381 control missions. All the costs of the verification process were paid by Germany.[28]

The implementation phase of Part V of the Peace Treaty can be subdivided into two parts: (1) Control of disarmament, and (2) Supervision under the League of Nations.

According to the Treaty, the disarmament and, therefore, also the on-site inspections should have been completed by 31 March 1920. But three factors derailed the time schedule of the Peace Treaty. First, the opting out of the United States delayed the entry into force of the League of Nations by several months. Second, the Kapp-Putsch and the riots in the Ruhr in March 1920 temporarily stopped the disarmament activities. Third, the German government was calculating that a deliberate slow-down of the implementation would force the Allies over time to allow a softening of the disarmament terms.

Slow progress in Germany's disarmament convinced the Allies to hold a summit at Spa in order to assess the situation. Lloyd George revealed that Germany was still very far from the implementation of Part V. 2 million guns and 2000 machine guns more had to be destroyed, the artillery pieces had to be reduced by the factor 6 and the number of armed persons by the factor of 10.[29] The Allied Powers pushed in particular for a rapid disarmament of paramilitary and civilian organisations (Einwohnerwehren) as they were afraid that large quantities of these weapons could fall into the hands of the communists.

Finally, by the Fall of 1921, Germany fulfilled most of the terms of the Treaty. An ultimatum by the Allies —the London Ultimatum — threatening the military occupation of the Ruhr if their demands were not immediately accepted, greatly contributed to German compliance. From this point on, the Germans considered their Treaty obligations fulfilled and requested the withdrawal of the IMCC. By the Spring of 1922, the disarmament process had produced very impressive figures. According to the *New York Times* "Germany had destroyed 5,855,000 rifles and carabines, 104,000 machine guns, 35,700,000 loaded shells and mines, 14,800,000 grenades, 13,383 airplanes, and 24,045 airplanes engines".[30] But, the French were reluctant to give up the control instrument; ever since the end of the war they had considered the intrusive control mechanism as an integral part of their containment policy toward Germany.

The debate about the future of the IMCC came to an temporary end in 1923 with the French and Belgian occupation of the Ruhr. The German authorities decided to adopt a policy of passive resistance, which, in fact, suspended the verification activities for almost two years. After the end of the Ruhr crisis, the Allies decided to hold a general inspection in Germany, the results determining whether the disarmament was fully

[28] Total costs by 1924 amounted to over 38 m Goldmark.

[29] M. Salewski, *Entwaffnung und Militärkontrolle in Deutschland, 1919-1927*, *op. cit.*, p. 135.

[30] *The New York Times*, 22 May, 1922, p. 19.

implemented. The general inspection was conducted over a period of five months and resulted in more than *2000* on-site inspections.[31]

The general inspection indicated that Germany had complied with the disarmament terms in 95 percent of the cases.[32] However, the Allies deemed the non-execution of 5 percent of the terms serious enough to postpone the military evacuation of the Rhineland. The Germans recognised non-compliance with some of the terms, but argued that "the defaults were not serious enough to warrant continued foreign supervision."[33]

The beginning of the end of the intrusive verification period came with the fundamental change of the international situation, epitomised by the Locarno Pact of December 1925. Brigadier Morgan, the British member of the IMCC, claimed that the withdrawal of the Commission, despite known German violations, was the price of Locarno.[34] By January 1926, the last Allied troops left the Rhineland and in September 1926 Germany joined the League of Nations. The League decided, in turn, that the IMCC would terminate its mandate by 1 February 1927. The supervision activities by military experts continued under Article 213 of the Peace Treaty. They had, however, no right for on-site inspections. These observers were withdrawn from Germany by 1930.

The *de facto* termination of the verification mechanism did not mean that Germany's disarmament commitments had come to an end. But from 1932 on, Germany was more or less openly involved in the rearmament process. In 1934, Germany reintroduced conscription. In 1935, the Anglo-German naval agreement effectively eliminated the validity of the naval clauses of the Versailles regime. By 1936, Hitler discarded both Versailles and Locarno by remilitarising the Rhineland.

Problems of Implementation

Lack of Accurate Data

The delay of entry into force of the Versailles Treaty and German reluctance to cooperate adversely affected the crucial first phase of the verification process. The IMCC was unable to proceed to what are called today baseline inspections. The German demobilisation and the disposal or transfer of weapons happened without Allied control. This led to major disagreements between the German government and the IMCC about how many weapons were destroyed before the inspection activities started.[35]

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[31] M. Efinger, *Rästungssteuerung und Verifikation in der Zwischenzheit*, Tübinger Arbeitspapiere zur Internationalen Politik und Friedensforschung, 1990, Nr. 16, p. 4.

[32] *Ibid.*

[33] See R. D. Burns and D. Urquidi, *Disarmament in Perspective*, California State College Foundation, Los Angeles, July 1968, vol. I., p. 179.

[34] J. A. Morgan, *Assize of Arms, The Disarmament of Germany and her Rearmament, 1919-1939*, London, 1946.

[35] P. Roques, *Le Contrôle Militaire Interallié en Allemagne*, Paris, Berger-Levtault, 1927, p. 36.

STEWARD RUDDIE, *Peace Patrol*, New York, G.P. Putnam's Sons, 1933.

In addition, the collection of data turned out to be a major challenge to the IMCC because of the unclear definition of Treaty Limited Equipment (TLE). For instance, Part V of the Peace Treaty did not provide definitions of war material. Dual purpose items, such as sporting rifles, added to this problem. It was up to the IMCC officers to make case by case decisions in this respect. Thus, until the end of the verification period, the Allies were not able to establish accurate data on German holdings.

Control vs. Monitoring

The ambiguity of the mandate for verification gave rise to a dispute between Germany and the Versailles Committee. The contention emerged over the question as to whether the IMCC could place inspectors in factories for *permanent* monitoring. The German argued that the relevant formulation of Article 205 "...as often as necessary..." did not explicitly allow the permanent presence of inspectors in private factories. General Foch determined, however, that monitoring teams within the key factories would be established, nevertheless.

Allied officers predominantly monitored factories producing Treaty restricted items. Large armament factories in Essen represented a primary interest to the Allies.[36] The IMCC dispatched eight control officers to this military-industrial city for permanent monitoring of the major armament production sites.[37] The German government repeatedly challenged the monitoring activities, but without success.

Lack of Cooperation of German Authorities

The IMCC was hated by the Germans because it was a physical reminder of Germany's impotence after the end of the war. "Wehrlos, ehrlos"[38] was not only a platitude at the time. The IMCC was seen as the responsible agent for the economic misery that plagued Germany in the early 1920s. Indeed, the IMCC closed many factories which added to growing unemployment. This trend was aggravated by the rapid demobilisation since several 100,000 men suddenly had to look for new employment. In many ways the situation reminds one of that of Russia after the collapse of the Soviet Empire in late 1991.

The aversion to the IMCC made it very difficult for German authorities to cooperate with the Allies. In fact, the occupation of the Ruhr by French and Belgium troops virtually terminated the possibility of cooperation with those inspection teams that contained French or Belgium officers. Numerous inspection reports were found complaining about German non-cooperation. In one plant alone (in Saxony) six hundred hidden 105 mm gun barrels were discovered. Also, in several cases Allied officers were harassed. In the Fall of 1924, for instance, threatening crowds stoned vehicles of Allied Officers in Ingolstadt and Passau.[39]

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[36] E.g. "Deutsche Werke" or "Krupp Werke".

[37] M. Salewski, *Entwaffnung und Militärkontrolle in Deutschland*, 1919-1927, *op. cit.*, p. 103.

[38] "Without defence, without honour".

[39] R. D. Burns and D. Urquidi, *Disarmament in Perspective*, *op. cit.*, p. 160.

Rewards for Denunciations

After the first experiences of non-cooperation, the Inter-Allied Armament Commission developed a rather curious reward system for denunciation. Anyone helping to discover non-declared arsenals with weapon systems or other TLE was rewarded. The reward was to be granted in proportion to the value of the discovered materials. A secret Executive Report of the Inter-Allied Armament Control Commission reads:

> "Permission is granted to reward informers up to, but not exceeding, 21/2 % of the actual value found, with a maximum total of 10,000 marks in any one case. Informer are only to be rewarded when material is actually discovered."[40]

The money for the payments of the informers came out "of funds advanced by the German Government for the payment of allowances."[41] For the Allies, this informer system served as a substitute for German cooperation. The IMCC claimed that 20 million denunciations led to a nearly perfect information system. It was obvious that this kind of method did not favour the working conditions for on-site inspections.

Irregular Military Forces

The IMCC had a very difficult time with their mandate to disarm all irregular organisations in Germany. The mushrooming of military, paramilitary and civilian self-defence forces after the end of the war was due to the revolutionary turmoils taking hold within the very young and very fragile Weimar Republic. In a "Foreign Affairs" article of 1933, German General Groener blamed the military clauses of the Versailles Treaty as responsible for the emergence of extremist paramilitary organisations, such as "Stahlhelm," "Reichbanner," and the "Nazis" after 1919. He argued that the abolition of the conscription army has been a mistake since it forced many young Germans to join paramilitary organisations.[42]

The Allies succeeded in disarming the paramilitary and civilian defence organisations only after a series of ultimata. Given the open opposition of the public as well as local governments (such as Bavaria), the IMCC moved away from their original intention of *dissolving* the organisations and accepted only their *disarmament*. The task of disarming irregular organisations was particularly onerous to the inspectors because the former received encouragement and active support from regional and local authorities. Moreover, the German militaries often perceived the paramilitary forces as necessary substitutes for the disarmed regular forces.[43]

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[40] Doc 8/23038/11518 COL 91, Inter-Allied Armament Control Commission, Execution Report, vol. II, p. 51-52.

[41] *Ibid.*

[42] General Wilhelm Groener, "German Military Power since Versailles, *Foreign Affairs*, vol. 11, No. 3, April 1933, p. 434.

[43] R. D. Burns and D. Urquidi, *Disarmament in Perspective*, *op. cit.*, p. 177.

German Non-Compliance and Circumvention

The question of German non-compliance and circumvention of the Versailles disarmament regime has become an integral part of the history of German disarmament. In the first phase of the disarmament process, numerous violations of the Versailles Treaty were reported by the Allied Control Commissions. But they were considered minor, as they were primarily the result of the delayed disarmament process.

Of a more serious nature were allegations that Germany was engaging in secret rearmament programmes, violating prohibitions in the area of non-production, testing and training. This non-compliant behaviour was basically the result of the violation of Article 160 of the Versailles Treaty —i.e., the disbanding of the Great German General Staff. Under the leadership of General Seeckt, the military authority of Germany planned and executed German rearmament in defiance of the Versailles Treaty from as early as 1920 onward. General Seeckt was building up a military elite ("Führerheer") to prepare for mobilisation (prohibited by Article 178) and training with forbidden weapons such as tanks and armoured cars with the objective to prepare for modern warfare that was based on mobility.

In the naval sector, the absence of provisions for the control of German defence expenditure enabled Germany to invest in the construction of modern battleships. Article 190 of the Peace Treaty prohibited Germany from constructing armoured ships with displacement of over 10,000 tons. But no constraints existed regarding the calibres of the ships. Through technological innovation and new design techniques, the Germans were able to build a battleship with high speed and high firepower capabilities. The construction of such "pocket battleships" took advantage of loopholes in the Peace Treaty.[44] Although the British were concerned about German technological innovations in the shipbuilding sector, no steps were taken to stop German efforts in this respect.

In addition to German rearmament, German-Soviet cooperation in violation of the Versailles Treaty constituted a serious threat to the survival of the Versailles regime. The high degree of secrecy of the illegal activities made it impossible for the Allied Control Commissions to find hard evidence of non-compliance. One of the reasons was that the military did not inform the political authorities about the extent of its cooperation with the Red Army. But indications of German-Soviet collusion were known early on.

Paul Roques, for instance, reports that during the time of the Soviet offensive against Poland in July 1920, the German government deliberately ignored requests from the IMCC to prevent a Russian train —loaded with 100 canons and 10,000 guns that had been confiscated from Bolshevik prisoners interned in Germany— from leaving Germany towards Russia.[45]

The motivation for both the German and Soviet militaries to cooperate in defiance of Versailles was great: the Soviet Union needed military know-how and technology and the Germans needed a place to test their military technology and to train formations with prohibited arms. Even before Rapallo, the Germans arranged with the Soviets for the construction of artillery and tanks at Kazan, the manufacturing and experimenting with

[44] See B. D. Berkowitz, *Calculated Risks*, Simon and Schuster, New York, 1987, p. 47.

[45] P. Roques, *Le Contrôle Militaire Interallié en Allemagne*, *op. cit.*, p. 36.

poison gas at Saratov, and the training of fighter planes and dive bombers at Lipetsk airbase.[46] After Rapallo, the German company *Junkers* began construction of aircraft in the Soviet Union and large German industrial groups, such as Blohm and Voss (submarine construction) and Krupp (production of shells and grenades) began their illegal activities. The Germans also carried out arms experiments in Spain and Switzerland, and submarine crews were trained in Holland, Spain and Finland.[47]

Sanctions

A major issue that divided the Allies was the question of how to react to German non-compliance. Since 1919, the French adopted the position of punishing German non-compliance with military sanctions in the form of territorial occupation. The British, however, opposed this enforcement method as they saw behind this a French policy to further cripple Germany.[48] They suggested, in turn, the use of diplomatic pressures and direct negotiations with the Germans.

The British, supported in this point by the Italians, rejected the use of force as a viable option for enforcement. They believed that the Germans acted in good faith, but were technically and politically unable to implement all the terms in due time.[49] France, fearful of possible treaty revisions, first opposed this approach, but then conceded to a meeting with the Germans at the Spa Conference. At that meeting —the first in the post-war era, where Germany was allowed to participate— the Allies presented a list of violations to the German delegation.

The next step the Allies took to enforce the disarmament terms was to issue the London Ultimatum. This explicitly threatened the occupation of the Ruhr in case of continued non-compliance. The Germans responded to this ultimatum positively and visibly accelerated the disarmament process.

In fact, the actual military intervention —the occupation of the Ruhr in January 1923— was not related to disarmament questions, but to German non-compliance regarding reparations. The assumption that use of military force would improve Germany's compliance record in the arms control field as well proved to be wrong. On the contrary, the result of the military action was temporary non-compliance in the form of passive resistance.

In 1925, the Allies proceeded to the indirect use of military coercion after a comprehensive inspection had provided evidence that Germany was still cheating.[50]

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[46] R. Butler, "The Peace Settlement of Versailles, 1918-1933", in Mowat, ed., *Cambridge New Modern History*, vol. XII, Cambridge Univ. Press, 1968, p. 236.

[47] H. Forbes, *Strategy of Disarmament*, Public Affairs Press, Washington, D.C., 1963, p. 66., and R. Butler, "The Peace Settlement of Versailles, 1918-1933", *op. cit.*, p. 236.

[48] R. D. Burns and D. Urquidi, *Disarmament in Perspective*, *op. cit.*, p. 162.

[49] *Ibid.*, p. 168.

[50] Points of allegation of the Allies:
- •continuation of the General Staff;
- •insufficient disarmament of the security police;
- •training of irregular forces;
- •insufficient industrial conversion.

The Allies did not occupy more German territory, but simply did not withdraw from occupied zones in the Rhineland. The non-withdrawal from Allied troops in defiance of a deadline was explained as a sanction against German violations in the field of disarmament. The Germans suspected, however, that the non-compliance arguments were used to camouflage French territorial aspirations.[51]

The experience with the Versailles military clauses has shown that the successful implementation of coercive disarmament measures is a function of the international situation. During the first two years after the war the common determination of the Allies towards Germany enabled them to ensure the execution of the military terms —if necessary with the help of ultimata. After the arrival of Streseman, who succeeded in terminating the "Ruhrkampf", and who survived the Hitlerputsch, the Allies developed more scruples for blatant coercion toward Germany in case of non-compliance.

After the Locarno Pact, German non-compliance virtually ceased to be an issue. In fact, the Allies agreed to withdraw the IMCC in late 1926 even though only days before the German social-democrats leaked to the English newspaper *Manchester Guardian* that German militaries had, in defiance of Versailles, produced warplanes, bombs and poisonous gas in the Soviet Union, and imported them to Germany. Even after a public announcement of these allegations in the German Parliament and a Soviet confirmation, the Allies did not take any action. It became clear that a strategic German-Soviet alliance had become a more serious threat to the security of the members of the League than German violations of the military terms of the Versailles Peace Treaty.

Conclusions

Versailles has become a synonym of failed efforts to construct a stable post-war order. The causality behind this is, however, less the imposition of a non-negotiated, unilateral and coercive disarmament scheme on Germany, but rather the inability of the members of the League of Nations to proceed to general disarmament. Versailles has not been the only case of compulsory disarmament, but it has definitely contributed to the general assumption that disarmament, unilaterally enforced on the defeated party after a war can only serve short-term objectives, and cannot be used as an element for a lasting post-war order.

This chapter has shown that the disarmament of Germany was not a war objective, but rather the result of electoral politics of Britain. At the end of the war, the Allies saw a correlation between disarmament of German armed forces and demobilisation of their own troops, but not between disarmament and security. Also, the French saw no security gains in disarmament, but rather another way to continue to fight German revanchisme.

The disarmament question finally became a divisive issue among the Allies themselves and an extremely destabilising phenomenon for the post-war period. The dissent related to the question of objectives to be pursued within coercive disarmament.

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[51] B. Gebhardt, *Handbuch der Geschichte*, IV, Stuttgart, Union Verlag, 1959, p. 149.

For Wilson and Lloyd George, it should have been punitive, but temporarily limited measures, allowing Germany to join the League as an equal partner afterwards. The underlying assumption was that the new democratic Germany would act in good faith.

The French did not agree with this view. For them, German revanchisme remained a threat even if Germany was run by a democratic government. The only way to assure French national security was through the continued containment and coercion of Germany. For this purpose, Part V the Versailles Treaty turned out to be a welcome instrument, as it allowed the reduction of German power and the effective verification of German compliance. It was, however, at no point in time perceived as a substitute for the need to contain Germany with large standing forces.

Germany felt a security dilemma as much as France or Britain. The Versailles disarmament scheme represented to the German leaders the institutionalisation of assured vulnerability towards armed coercion from Allied powers. The only way to respond to this threat was to engage in illegal rearmament.

The disarmament did not proceed as planned primarily because of the rigid time table of Part V which was not compatible with the chaotic situation right after the war. The delay of the beginning of the implementation made baseline inspections impossible and contributed to the struggle over the question of when German disarmament would be fully implemented.

It is debatable as to what extent German non-compliance in the 1920s had an impact upon the military capabilities of Germany in the late 1930s. The importance of the cadre army was definitely exaggerated by historians. Even after a full mobilisation of all illegally trained troops, the German armed forces would not have matched the number of the French active forces alone. Also, German forces were without heavy weapons.

More serious were the violations and evasions of *non-production* and *non-testing* commitments. The German military-industrial complex took great efforts for not falling behind in the field of arms procurement and weapons modernisation. For that purpose, it continued research, development and testing of new military technology in Germany and abroad. This was true for the new design and construction methods in the navy, air force, the mechanised ground forces and chemical warfare.

But the success or failure of the disarmament of defeated Germany cannot only be measured in terms of implementation and compliance behaviour. The coercive, unilateral disarmament of the German armed forces left profound frustrations in the German population. The continued humiliation was epitomised by the uniforms of foreign officers who had the right to conduct on-site inspections anytime, anywhere, without allowing German authorities a right of refusal.

Thus, regardless of how successful the disarmament exercise, the political side-effects had in the long-term overcome any security gains from disarmament. This same line of thought is only one step away from General Groener's argument that it was the disarmament itself that was responsible for the illegal militarisation and rearmament of Germany in the post-war period.

Chapter 2
The Italian Peace Treaty of 1947: The Enemy/Ally Dilemma and Military Limitations

Ilaria Poggiolini and Leopoldo Nuti

Introduction

(Ilaria Poggiolini)

The termination of World War II did not coincide with the formal process leading to peace treaties among the former enemies. This gap of two years, that included the phase of the Allied occupation and the elaboration of the peace treaty, turned Italy into a test case of East-West relations.

The focus of this chapter is on the process of transition from war to peace which included the elaboration of the Italian Peace Treaty of 1947. Particular attention is devoted to the inconsistency of the Italian settlement once international relations shifted towards East-West competition during the years 1945-1947. This is particularly relevant because it shows that mechanisms of revision and peaceful change issues, much more than specific mechanisms of enforcement, are pertinent to the Italian case.

The introductory observations on American policy towards Italy, as well as on the British punitive attitude and the Soviet attempt to exploit the lack of agreement among the occupying powers, will provide the background for an analysis of the Treaty. In actual fact, the clauses of the Italian Treaty were the result of a series of diplomatic compromises elaborated in the phase of transition from war-time collaboration to Cold War confrontation. Thus, the background of these decisions cannot be underestimated.

Since the time of negotiations for the Italian Armistice (August-September 1943), both the state of relations between the Allies and the outcome of war operations had a major impact in shaping the terms of Italy's surrender. Italian expectations of changing sides and receiving a mild armistice, could not be reconciled with the formula of "unconditional surrender" elaborated by the Allies at Casablanca on 24 January 1943. The Italian Armistice was signed at Cassibile in Sicily on 3 September 1943 and took the form of a military capitulation. A longer document establishing political, economic and financial conditions followed.

On the whole, the "rules of unconditionality" were unpalatable for the Italians but did not coincide with the total collapse of the state. The Allies soon realised that a political vacuum in the peninsula would not help them in carrying on military operations. As a result, they recognised the post-Fascist Italian government as co-belligerent less than two months after the unconditional surrender, thus obtaining Italy's collaboration in the war against the Germans.[1]

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[1] Bruno Arcidiacono, *Le "Précédent Italien" et les origines de la guerre froide*, Bruxelles: Bruylant, 1984. David Ellwood, *Italy 1943-1945*, Leicester: Leicester University Press, 1985. Ilaria Poggiolini, "Italy 1943-1955" in David Reynolds, ed., *The Origins of the Cold War in Europe: New International Viewpoints*, New Haven, CN: Yale University Press (forthcoming).

However, Washington and London disagreed about Italy's future and, consequently, about the ultimate aim of their occupation policies. The Americans had never really felt at war with the Italians. As soon as Italy's post-war governments could be regarded as democratic, the United States aimed at easing the country's "passage" from enemy into ally. Unfortunately, on the British side, there was not the same willingness for friendly relations. London kept to the idea that the Italians should be held responsible for their recent past. Thus, their interest in ameliorating Italy's international status could only be conceived as a military necessity. This lack of common planning on the side of the Anglo-Saxon Allies frustrated the expectations of the Italians who had counted on their status of co-belligerents and on American goodwill, in order to achieve a quick reversal of their fortune.[2]

Moreover, even before negotiating the Armistice, in early 1943, the problem of relations between the war-time allies had affected the future of Italy. British ambitions and the fact that the occupation of the country had developed into a test-case of post-war collaboration within the "Grand Alliance" was likely to lead to the establishment of rules of behaviour in dealing with all liberated countries. However, the British attempt at being officially regarded as the "senior partner" in the occupation of Italy was rejected by the Americans throughout the long diplomatic discussion, finally concluded at the Trident Conference in May of 1943. This avoided establishing a rank between the Allies but led to the question of who was going to inherit the legacy of British influence in the Mediterranean.[3]

As for Soviet participation in implementing the Italian Armistice, London was in favour of not excluding Moscow from the policy of occupation in Italy. This should have prevented the Soviets from excluding the Western Allies from the countries of Eastern Europe. However, as a result of the continuation of military operations, the idea of associating Moscow to the administration of Italy faded.

Soviet interests in Italy were covered only through an advisory Allied body that included Moscow. Such an unbalanced situation was the source of Soviet retaliation in Eastern Europe and in Italy itself. The latter took the form of Soviet diplomatic recognition of the Italian government in March of 1944. The Italo-Soviet initiative put pressure on London and Washington regarding the improvement of Italian relations with the West. Therefore, at the end of 1944, Roosevelt and Churchill elaborated the "New Deal for Italy" which was aimed at reconciling Anglo-American differences, thus easing the burden of the Armistice on the Italians[4]. Making the transition from unconditional surrender to the softening of the Armistice strained the American-British relations and implied a remarkable shift in Allied policy towards Italy.

But a peace treaty was needed in order to put an end to the state of war still existing between Italy and the victorious powers and to free the peninsula from the occupation.

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[2] Bruno Arcidiacono, "The Dress Rehearsal: The Foreign Office and the Control of Italy, 1943-1944", *The Historical Journal*, 28:2, 1985, pp. 417-427.

[3] Antonio Varsori, "'Senior' or 'Equal' Partner?", *Rivista di Studi Internazionali*, 45:2, pp. 229-260.

[4] Roberto Morozzo della Rocca, *La politica estera italiana e l'Unione Sovietica* 1944-1948, Roma: La Goliardica, 1985.

According to the mechanism of peace negotiations set up at Potsdam, the Italian Treaty would have to be given priority over the former satellites of Germany in the course of peace talks. However, during the Fall of 1945, the course taken by the negotiation of the Italian Peace Treaty, with the failure of the London meetings of the Council of Foreign Ministers (CFM) to reach an agreement, made East/West confrontation unavoidable. As a result, the Italian government became aware of the risk of receiving a punitive treaty. Furthermore, the Moscow Conference of December 1945 deprived Italy of the priority in peace-making accorded to her at Potsdam. Rome felt betrayed and even more inclined not to accept a disappointing treaty.[5]

Once again even London and Washington could not reconcile their views of how to overcome Soviet obstructionism at peace negotiations. Notwithstanding the fact that the settlement of the Yugoslav-Italian border required Soviet consent, the appeal of a separate peace between the Western Allies and Italy had been very strong among State Department analysts in Washington. Yet, when the CFM resumed in Paris during the Spring of 1946, the Western representatives did not appear less determined to avoid a definitive break-down of their negotiations with the Soviet Union over the Italian treaty. From the Italian point of view, British and American reluctance in applying their new "containment" approach to formal peace-making could only lead to a policy of Western sell-out.

In response to Italy's fears and requests to revise the Armistice agreements, the victorious powers abolished the Allied Control Commission and the most burdensome military restrictions. As far as peace negotiations were concerned, the creation of the Free Territory of Trieste at the CFM meetings in the Summer 1946, was a source of particularly profound disappointment for the Italians. They felt betrayed and threatened not to accept a treaty that would deprive them of Trieste, of the colonies, and the imposition of reparations as well as military restrictions.[6]

The peace conference that took place in a climate of East-West confrontation, confirmed the majority of provisions agreed upon by the CFM. Very few minor amendments were adopted at the final session which was held in New York between the beginning of November and the first half of December 1946. Amid doubts, resentments and the first attempts to have the principle of revision recognised, the Italian Peace Treaty was signed on 10 February 1947.

Instead of contributing to a better understanding, peace diplomacy had increased suspicion and fears. As a result, Italy found herself in the position of confronting a treaty which was perceived as punitive and inconsistent with the liberal policy of the Western Allies towards the Italian peninsula.

What the Italian settlement did achieve was the end of the state of war between Italy and her former enemies. This could only be formalised by a joint East-West agreement. However, to impose a punitive treaty on Italy was not what the occupying powers aimed for in 1947. Immediately after the signature, the United States had become aware of the contradiction existing between the treaty provisions - including a "war guilty clause" and strict limitations of the armed forces - and Italy's potential role within the Western camp.

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[5] Ilaria Poggiolini, *Diplomazia della transizione*, Firenze: Ponte alle Grazie, 1990, pp. 15-40.

[6] Ibid., pp. 41-73.

The Military Clauses of the Italian Peace Treaty

(Leopoldo Nuti)

In drafting the military clauses of the Italian Peace Treaty, the great powers did not have any of the difficulties they had encountered in the preparation of the other sections, the only exception being the division of the Italian fleet. There was actually a substantial agreement among the powers to impose upon Italy a moderate, partial and temporary disarmament, with some slight differences in tone.

Such a decision was the result of similar points of view. For the British government, the military clauses of the Treaty were crucial to eradicate Italian ambitions to play a great power role in the future. The British military, in particular, wanted to avoid any future repetition of Mussolini's Mediterranean threats of 1940–1942 to the lines of communication of the Empire. The British determination to limit Italian armaments was strengthened by the fact that the Italian Treaty was the first one to be drafted, which implied that its contents would establish a pattern to be followed for other former Nazi satellites such as Bulgaria and Romania. The military clauses of the Italian treaty were therefore regarded as the instrument through which the British Chiefs of Staff hoped to weaken the potential aggressiveness of the Balkan countries, in order to prevent them from enforcing a policy of military intimidation against Greece, the only British ally in Southeast Europe.[7]

The U.S. delegation also supported the idea of imposing a limited disarmament upon Italy, but did not regard Italy as a military threat to be curbed once and forever. The draft treaty presented at the London session of the Council of Foreign Ministers was more moderate than the British one, although it accepted the principles of a temporary limitation of armaments, control of warlike material production, and of the demilitarisation of certain areas of Italian territory.[8] A limited disarmament, in American eyes, was going to be quite helpful in steering Italy away from any nationalist temptation or great power illusion, as well as in persuading Italian statesmen to look towards the United Nations and the Western powers for the country's security.[9]

The somewhat harsher British draft was used as the framework for the final text of the Treaty, with some relevant modifications added during the sessions of the Council of Deputy Foreign Ministers in Paris in the spring of 1946. During these sessions both France and the Soviet Union successfully tried to modify the British text: the French, in particular, wanted the Treaty to eliminate any future chance of Italian aggression, and were responsible for adding some severe clauses such as the delimitarization of a 20 km. area along the border and the prohibition of deploying more than 200 medium and heavy tanks.[10] As for the

[7] The Military and Air Side of the Peace Treaty Negotiations, Report by the Service Advisors to UK Delegation at the Peace Conference, May 29, 1947, in *Public Record Office* (PRO), DEFE, 5/1.

[8] An earlier draft submitted to Byrnes by the State-War-Navy Coordinating Committee was so benevolent towards Italy that it was not even presented at the Council of FM. The SWNCC draft is the Report on Military, Naval and Air Clauses of the Treaty of Peace with Italy by an ad-hoc Committee of the SWNCC, September 6, 1945, in *FRUS*, 1945, vol. IV, Europe, pp. 1034-1045; the later draft, "Memorandum by the US Delegation to the Council of Foreign Ministers", is in *FRUS*, 1945, vol. II, Council of Foreign Ministers, pp. 179-181.

[9] Grew to Stimson, June 15, 1945, in *FRUS*, 1945, vol. IV, Europe, pp. 1008-9.

[10] For the French attitude, see Pierre Guillen, "I rapporti franco-italiani dall'armistizio alla firma del Patto Atlantico," in *L'Italia dalla liberazione alla Repubblica*, Milano: Feltrinelli, 1976, pp. 145-180.

Soviet Union, it tried to cultivate Italian neutralist inclinations by taking a relatively moderate attitude, hoping that such moderation could then be applied when the other peace treaties with the Balkan countries would be drafted. After the French obtained the demilitarisation of a 20 km area along their border, however, the Soviet Union also insisted that the same be applied to the Italo–Jugoslav border.

The only real bone of contention was the division of the Italian fleet. In spite of the fact that both Great Britain and the U.S. did intend to impose some limits upon the Italian Navy, they had to defend it against the much more rapacious intentions of France and the Soviet Union. The latter did not only try to acquire a large section of the Italian Navy, but were also adamant in their request to treat the fleet as war booty, and therefore separately from the reparations that Italy had to pay to the countries she had damaged during the war. US Secretary of State Byrnes tried hard to limit Italian losses by insisting that the fleet had to be counted as part of the reparations, to no avail. Eventually not all the Soviet and French demands were met by the Treaty, but the naval clauses reflected their firm intentions to get a fair share of Italian ships, and they were probably the most severe ones of the whole military section.[11]

It must be kept in mind that disarmament, however, was just one side of the coin of Anglo–American policy towards Italy, given the ambiguous status of co–belligerent/semi–defeated country that Italy had been enjoying since the Armistice of September 1943. In the last two years of the war Italian armed forces had been fighting against the Germans and alongside the Allies under the orders of the Supreme Allied Commander in the Mediterranean, and had been equipped mostly with Allied warlike material. When hostilities ended in the Italian theatre, the SACMED was left with the puzzling task of guaranteeing both the domestic and the external security of Italy with a dwindling number of Allied occupation troops, and by the summer of 1945 he ended up asking the Combined Chiefs of Staff for permission to continue equipping the Italian Army and Air Force in order to be able to meet his requirements – a permission which was promptly granted.[12] Thus, by the end of 1945, the Allies –or actually one should say the British since until early 1947 they were the ones who provided the bulk of the material– were already rearming, or at least providing military surplus to the Italian Army and Air Force, albeit on a rather limited scale. Such an endeavour fit very well with the Anglo–American design to keep Italy firmly aligned with the West, as well as with the British intention to retain a certain amount of influence among the postwar Italian armed forces.[13]

When the draft treaty was made known, the Italian government presented a number of counterproposals prepared by each one of the three services, and tried to use them as

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[11] See *FRUS*, 1946, vol. II, Council of Foreign Ministers, pp. 58-59; 128-134; 139; 584-587; 603-606; 678-679; 688-689; 696; 816-817; 1492-1493.

[12] CCS to SACMED (FAN 621), September 30, 1945, in *National Archives*, Washington (from now on, NAW), Record Group 165 (Records of the War Department General and Special Staffs), ABC 420 Italy (30 Oct. 1943) Sec. 1-B.

[13] Lepoldo Nuti, *L'Esercito Italiano nel secondo dopoguerra. La sua ricostruzione e l'assistenza militare alleata*, Rome: Ufficio Storico Stato Maggiore Esercito, 1989.

a basis to negotiate with the other powers a number of bilateral agreements that would substitute for the Treaty by establishing the ceilings for the Italian armed forces. This initiative was rejected, but the final draft of the Treaty partially accepted the substance of many of the Italian counterproposals.[14]

According to Part IV of the Italian Peace Treaty (Naval, Military and Air Clauses), the Italian Army was imposed a ceiling of 185,000 soldiers and 65,000 Carabinieri -- the military police responsible for enforcing law and order (Art. 61 and 62). The clause also made it possible to raise the limit of one of these two branches of the Army by 10,000 units, provided the other one was equally lowered. Deployment on national territory had to meet defensive criteria and the main purpose of the army was said to be the prevention of small scale aggressions and the control of domestic security.

Not many specific limitations were included, but after French insistence, Italy was forbidden to have more than 200 medium and heavy tanks (Art. 54). All Fascist personnel had to be dismissed (Art. 55), but no restrictions were imposed upon recruitment, leaving the Army Staff and the government free to chose between conscription and an all–volunteer force. No paramilitary formations were allowed, however, and military training had to be restricted only to the Army and the Carabinieri (Art. 63). Finally, the Italian army could not store either guided missiles, atomic, bacteriological and chemical weapons, nor war material of German and Japanese origin (Art. 51–52). Since the Italian counter–proposal advocated an army with a ceiling of 236,000 units and no specific limitations on armaments, there was not much difference between Italian suggestions and the final text of the treaty. There was, however, one unexpected restriction in Article 53 of the Treaty, which prohibited the manufacture of armaments for export.[15]

The Air Force was limited to 200 fighters and reconnaissance aircraft, with another 150 for transportation, training and rescue purposes. The Treaty did not allow no bombers, but it did not contain any limitation about using fighter aircraft as fighter–bombers (Art. 64 to 66). These clauses did not differ too much from the Italian counterproposals, which advocated an Air Force of 3 fighter wings for a total of 198 planes, 3 reconnaissance and light bombing wings for a total of 96 planes, and 2 wings of 64 planes for sea–rescue operations.[16]

The most severe clauses were those related to the Navy (Art. 56 to 60). The Treaty established a ceiling of 106,756 tons, inclusive of all the old Italian battleships which amounted to 48,000 tons, while most of the rest of the fleet was to be divided as war booty between the winners. No new construction was allowed for 5 years, and all submarines and the remaining surface ships had to be scrapped and dismantled. Personnel had to remain within the ceiling of 25,000 units. There was quite a wide gap between these clauses and the Italian requests, since the Italian government had

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[14] See Leopoldo Nuti, *L'Esercito italiano nel secondo dopoguerra, 1945-1950. La sua ricostruzione e l'assistenza militare alleata*, Roma: USSME, 1989, pp. 93-109.

[15] "Considerazioni relative all'Esercito nei riguardi del trattato di pace," April 1946, in *Archivio Ufficio Storico Stato Maggiore Esercito*, I/4, racc. 58, cart. 3.

[16] "Considerazioni relative all'aviazione militare italiana nei riguardi del trattato di pace," April 1946, in *AUSSME*, I/3, racc. 210.

demanded a fleet of about 100,000 tons, plus the retention of both the old battleships of the "Doria" class, to be used for training, and of the new ones of the "Vittorio Veneto" class, to be assigned to the forces of the UN. The Italian government had also asked to be allowed to refund financially, and not in kind, all the vessels that had been damaged by the Italian fleet during the war, but the request has been rejected.[17]

The harshest clauses, however, were not regarded as the ones imposing limits on Italian armaments so much as those modifying Italian frontiers and forcing the demilitarisation of certain border regions. In fact, the Council of Foreign Ministers, had accepted the French proposals of imposing a 20 km. demilitarised area at the Western Italian frontier (Art. 47), and after Soviet pressure had extended this clause to the Eastern border with Yugoslavia (Art. 48). Other demilitarisations were imposed on areas of less strategic importance, such as the northern coast of Sardinia facing the island of Corsica, some of the smaller Mediterranean islands (Pantelleria, Lampedusa and Linosa) and an area in the Apulia region facing the Otranto straits and Albania (Art. 49–50). All the demolition work in these regions had to be completed within one year after the last instrument of ratification had been deposited, i.e. by September 15, 1948.

These limitations, together with the border modifications implemented by the Treaty, were perceived by the Italian military as an attempt to make it impossible for Italy to defend herself in the future. The Italian Army Staff, in particular, believed that the limited forces granted by the treaty would suffice for defending the country against a limited aggression, but only with the provision that they could rely on border fortifications and the old frontiers. According to the Italian army Chief of Staff general Marras, the new strategic context created by the combination of the border modifications and the force reductions simply made impossible any attempt to plan a defence of the national territory.[18]

In spite of the fact that in 1946 the Italian armed forces were way below the ceilings established by the Treaty, and that they had to rely heavily on the continuation of Allied military assistance in order to survive, the military clauses were met with a wave of indignation. The criticism from the Armed Forces, in fact, merged with the general outcry of protest with which the Peace Treaty was met in Italy. The government and the public opinion felt that Italian efforts to redeem the country from its Fascist past had not been rewarded by the great powers, and they regarded Italy as being unjustly punished by the Treaty. In this context, the military clauses of the Treaty were not criticised as particularly harsh *per se*, as much as part of a general settlement that was considered unfair as a whole.

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[17] "Considerazioni relative alla Marina militare nei riguardi del trattato di pace", April 1946, in *AUSSME*, I/4, racc. 58, cart. 3.

[18] "Revisione trattato di pace", Gen. Marras to the Ministry of Defence, October 18, 1947, in *AUSSME*, L/13, Carteggio Marras, racc. 52, cart. 10.

Enforcement of the Treaty

(Leopoldo Nuti)

The enforcement of the military clauses of the treaty was to take place under the supervision of the Council of Allied Ambassadors in Italy, who would be assisted by their military attachés and other military advisers. This military personnel was granted on–site inspection rights to check the extent of Italian compliance with the Treaty, and had the task of supervising the dismantling of the fortifications and of the other military installations in the demilitarised areas, the scrapping of the submarines and of the rest of the surface fleet, and the cession of a large part of the Navy.

Hardly had the Treaty been ratified, however, when the Italian government began a 360 degree manoeuvre to limit its enforcement. While professing its willingness to comply with the treaty provisions, and abstaining from calling for a formal revision of its clauses, the Italian government chose to negotiate directly with some of the signatory powers the extent of Italian compliance with some of the most important military articles, a strategy that can be defined as selective compliance. At the same time, the government also neglected to implement some of the minor military clauses hoping that the new international environment that was being shaped by the onset of the Cold War would make their enforcement unnecessary.

Italian diplomacy was most active in trying to limit the impact of the naval clauses of the treaty.[19] In the last stages of the Paris Peace Conference, the Italian Prime Minister De Gasperi had asked the U.S. Secretary of State Byrnes to formally renounce to the quota of Italian fleet allotted to the US by the treaty. The Italian Prime Minister renewed his request during his visit to the U.S. in January 1947, and in October of that year the U.S. ambassador in Rome, James C. Dunn, declared that his government formally renounced its entire quota of Italian ships, provided that the Italian government ensured that they would be scrapped in Italian shipyards.[20] In the following months, however, only the battleship "Italia" and two submarines were dismantled, while all the other vessels were preserved with the tacit U.S. approval. A similar Italian approach to Great Britain was met with more obstacles, but was eventually successful in obtaining a renunciation of British rights. As in the previous case, only the big battleships were destroyed, while most of the minor units were spared from destruction.[21]

France and the USSR proved more difficult to deal with, as neither intended to give up its rights to Italian war booty. The negotiations with France were made all the more complicated since they involved also the demilitarisation of the border area between the two countries, which Italy intended to carry out to the smallest possible extent. In July

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[19] The initiatives related to compliance with the naval clauses of the Treaty are described in great detail in Giovanni Bernardi, *La Marina, gli armistizi e il trattato di pace*, Roma: Ufficio Storico della Marina Militare, 1979.

[20] "Argomenti di carattere politico trattati al Dipartimento di Stato in occasione della visita negli Stati Uniti del Presidente del Consiglio", 5-15 January 1947, in *Archivio Storico del Ministero degli Affari Esteri* (ASMAE), DGAP, Italia-Conferenza della Pace, 1946, b. 30. See also Bernardi, *op. cit.*, pp. 378-381.

[21] See Antonio Varsori, "L'incerta rinascita di una tradizionale amicizia: i colloqui Bevin-Sforza dell'ottobre 1947", in *Storia Contemporanea*, 4, 1984, 593-465; Bernardi, *op. cit.*, pp. 381-384.

1948, the two governments finally reached an agreement on both issues: on July 14, 1948 an exchange of notes between the Italian Foreign Minister Sforza and the French Ambassador in Rome Fouques–Duparc acknowledged that Italian ships were to be given to France not as a war booty but as compensation of French wartime losses, and France renounced to 24 out of the 43 vessels granted by the Treaty.[22] Shortly after this first agreement, another was reached that defined the extent of the demilitarisation of the French–Italian border. By another exchange of letters on July 28, 1948, the French government authorised the Italian government to maintain 348 fortifications out of the existing 977, i.e. about 35% of the total, and to carry out the destruction of the remaining ones in such a way as to limit the overall cost of the operation to 50% of what was originally planned. In return, the Italian government accepted that French officers could inspect the demolition works.[23]

Soviet intransigence made it virtually impossible for Italy to negotiate the cession of the ships to the Soviet navy, and the only benefit the Italian government was able to extract from Moscow was the Soviet pledge to accept the Italian formula for the solution of the war reparations issue in return for an immediate delivery of the Italian ships.[24] Greece and Yugoslavia also refused to modify the naval clauses of the Treaty, and only accepted the Italian proposal that the vessels be granted as compensation for wartime losses and not as a war booty. Finally, Italy was able to slightly alter the clause related to the demolition of its extensive submarine fleet. Instead of having to sink all its submarines, in December 1947 Italy was allowed to scrap them in such a way as to make the most out of their demolition.

The other military clauses did not stimulate any comparable diplomatic activity by the Italian government, and most of the demilitarisation was implemented within the deadline of May 1948. An extensive review of Italian compliance with the treaty carried out by the U.S. Embassy in Rome in June 1948, nevertheless, found the Italian government guilty of non–compliance with 20 out of the 27 articles of the Military Section of the Peace Treaty. The violations were of two categories:

1. those which have materially assisted the Italian government in maintaining the security of the country against both external and internal inimical forces, and
2. those which have their causes in carelessness, inefficiency, psychological factors such as national pride, or the domestic prestige and stability of the government.[25]

The report singled out some blatant violations: the presence of 463 tanks – albeit not all were in operational conditions – instead of the 200 allowed by the treaty; the existence of two large units trained and equipped along military lines, namely the Corps of the Guards of Pubblica Sicurezza (about 80,000 strong), and the Finance Guards (about 36,000 strong), in spite of the fact that Art. 63 forbad military training outside of the

[22] Bernardi, *op. cit.*, pp. 384-400.

[23] Scambio di lettere Sforza-Fouques Duparc, July 28, 1948, in *AUSSME*, I/4, racc. 59, cart. 11.

[24] Bernardi, *op. cit.*, pp. 400-414.

[25] "Violations of the Peace Treaty", I.R.P. # 4354, 23 June 1948, in NAW, RG 319 (Records of the Army Staff), P and O 092 (23 June 1948) F/W 35/52.

Army; and the presence of a large amount of excess war material. While noting the extensive non–compliance with the Treaty, the report, nevertheless, concluded that

> it would not be in the best interest of Western powers, including the United States, for Italy materially to cut down its military capabilities for resisting attack from within or without by implementing such measures as dissolving the Corps of the Guard of the Pubblica Sicurezza.

The conclusions are particularly illuminating to understand the political climate in which the Treaty should have been implemented, as they show the rapidly growing impact of the Cold War on the execution of the military clauses. Both the Italian government and the Western powers were aware that in the new international environment of confrontation between the West and the Soviet Union, Italian domestic security had acquired an entirely different importance, and that a strict implementation of the treaty was quickly becoming irrelevant, if not even contrary to the interests of the West.

The Italian government tried, therefore, with a certain amount of success to avoid a strict compliance with many clauses of the Treaty, and its efforts met a very limited resistance by the Western powers. Soon the new exigencies of the Cold War superseded the early plans for preventing a resurgence of Italian nationalist ambitions, and the clauses of the Treaty came to be regarded as an obstacle to Italian stability and security. In this new context, the inspection regime created by the Treaty and its supervisory body rapidly lost its importance, although the Italian government was determined to obtain a full and complete removal of all limitations to its sovereignty as soon as possible.

Evolution of the Treaty

(Ilaria Poggiolini)

From 1947 onwards, the Italian government was in the position to argue that the Peace Treaty was not consistent with the American plans of reconstruction and political stabilisation of Western Europe. Therefore, Rome aimed at obtaining the removal of the treaty's limitations on Italian armaments, as an essential condition for gaining back her full sovereignty. As a first step in this direction, the victorious powers, with the sole exception of the Soviet Union, recognised the Italian right to seek treaty revision, thus implementing Article 46 of the Treaty itself.[26] Furthermore, on July 31st when the Italian Constituent Assembly adopted a bill authorising the government to ratify the Peace Treaty, a message from the American Secretary of State officially recognised the inadequacy of some of the Treaty's clauses and promised American economic and political support.[27]

These were clear signs of a strong American interest in adapting the Treaty, that had barely come into force, to Italy's potential role as a "bastion" of democracy in the

[26] Pietro Pastorelli, "L'entrata in vigore del trattato di pace e il problema della sicurezza" in Pietro Pastorelli, *La politica estera del dopo guerra*, Bologna: Il Mulino, 1987. Norman Kogan, "Revision of the Italian Peace Treaty", *Indiana Law Journal*, 27 (Spring 1953): 334-53. *Department of State Bulleti*n, 22 June, 1947.

[27] "From the Director of European Affairs to the Secretary", 31 July, 1947, in: *National Archives Washington* (NAW), R.G. 53, Records of the Office of Western European Affairs Relating to Italy, box 1.

Mediterranean area. Therefore, the internal stabilisation of Italy and the revision of the Treaty were not separate issues. However, the move of the cold war frontiers toward the East which followed Tito's schism, had an impact not only on the question of the Italo-Yugoslav border. It also increased difficulties of integrating Italy's security needs with those of the other Western Powers. Even entering the Atlantic Alliance was not to dramatically change Italy's status, nor to make the strategic role of the peninsula clearer.[28]

A stronger interest in Italy's participation in European re-armament arose as a result of the international tension caused by the Korean War. However, no answers were easily found to the question of how to reconcile the revision of the military clauses of the Italian Peace Treaty and her marginal role within the Atlantic alliance with the parallel attempt to keep open East/West peace negotiations on the Austrian and German settlements. Further moves toward Italian rearmament or actions in favour of the return of Trieste to Italy were very likely to put additional strain on relations with the Eastern block and increase Soviet obstructionism.

Both from the Italian and the American points of view, the lack of progress toward the goal of treaty revision was unacceptable. As a result of the Mutual Defence Assistance Program (MDAP), passed by the American Congress at the end of 1949, military assistance was to be extended to Italy. In order to do so, by April 1950, the National Security Council (NSC) document (67/1) called for a "liberal" interpretation of the terms of the Italian Peace Treaty. Otherwise, assuming that Rome would not continue to delay approval of defence expenditure under the new NATO plan, the Italian armed forces were soon bound to reach treaty limits. Italy's hesitations were a sign of the conflict still existing between her ambition to achieve an international status of equality and the unwillingness to accept the related costs and responsibilities of such new conditions.[29]

It was only at the end of 1950 that the Italian government, under pressure from the United States, announced its intention of increasing military expenditure. In January 1951, the NSC document 67/3 recommended that on the basis of Italy's relevance to Western security, action should be taken in order to remove the obstacle to Italian rearmament posed by the legacy of military restrictions. On 15 May 1951, incessant pressures from Washington succeeded in convincing the Italian government to approve $400 million for rearmament as a precondition to qualify for ECA assistance. This was a sign of a general move from economic assistance to military aid as a prevalent element in international relations. Thus, even the Italian government whose military expenses for the years 1949-50 had been the equivalent of the 3.4 percent of its national product, it spent 4.2 percent for defence in 1950-51 and 5 percent in 1951-52.[30]

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[28] Antonio Varsori, "L'Italia fra alleanza atlantica e CED (1949-1954)", *Storia delle Relazioni Internazionali*, IV (1988)-1- pp. 124-165.

[29] *Ibid.*, Ilaria Poggiolini, "Italy 1943-1955".

[30] Timothy Smith, "From Disarmament to Rearmament: The United States and the Revision of the Italian Peace Treaty of 1947", *Diplomatic History*, Summer 1989, p. 366.

The question became one of eliminating the risk that, with more military equipment on the way, the treaty limits would be violated.[31] Furthermore from 1951 onwards, Italy insistently put forward her demands for revision. The Italian Foreign Minister Carlo Sforza, requested that at least the United States, Great Britain and France would announce the extinction of the Peace Treaty with Italy.

Finally, in June, both London and Washington came to the conclusion that within the current international scenario, further postponements of treaty revision could only be detrimental. It had become apparent that the international system based on Great Powers cooperation had collapsed. The Italian Treaty had been drafted in order to fit into the pre-cold war scenario and had therefore ceased to be consistent with Western interests. The Italians also argued that the Treaty should be revised not only to put Italy's participation in NATO on equal footing, but also to avoid that the country would be left behind the other former enemies of World War II. Particularly after the signature of the Japanese Peace Treaty in 1951, the Italian government felt very strongly about being left with a somewhat punitive treaty while Japan had obtained a mild peace of reconciliation.[32]

At the end of 1951, Rome requested Great Britain, France and the United States to amend the obsolete Treaty. As a result, the representatives of the three governments worked out a five-step process of revision which was approved and completed by the end of 1951.[33] The revision abolished the political and moral provisions of the treaty and declared the military clauses inconsistent. As far as Great Britain, France and the United States were concerned, Italy was no longer under legal or moral obligations from the treaty of 1947. However the problem of Trieste was still unsettled and the agreement had little impact on those countries which were not parties of the declaration, namely the Soviet Union and Yugoslavia. In 1952, Rome replied to Moscow's fifth veto of Italy's UN membership by declaring null and void her treaty obligation to the Soviet Union.

Thus, in the case of Italy, the successful attempts at circumventing the military provisions of the Peace Treaty can be described as an act of "peaceful change" which did not pose any threat to the post-war order. In actual fact, it was quite the opposite; both the Western victorious powers and the Italian government could not but agree that the Peace Treaty hampered Italy's potential role within NATO once the breaking up of the war-time "Grand Alliance" had sanctioned the division of the world into two opposite blocks.

One can argue that the revision of the Italian Peace Treaty belongs to a phase of international relations in which the focus shifted from the goal of maintaining international consensus to the aim of granting security. By the early 1950s, the two super-powers had elaborated an approach to peace-making consistent with their post-war strategic role. Italy's post-war status and rank grew according to the evolution of the international system as well as to her willingness and capacity to fit into a bipolar scheme of rehabilitation, reconstruction and defence.

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[31] "The Effects of Limitation Imposed by the Italian Peace Treaty on Italian Obligations under NATO Plans", September 17, 1951, *FRUS*, 1951 -IV- pp. 670-671.

[32] Ilaria Poggiolini, "Italian Revisionism after World War II: Status and Security Problems 1947-1955" in Rolf Ahmann, ed., *Problems of Western European Security 1918-1956*, Oxford, Oxford University Press, forthcoming.

[33] Timothy Smith, op. cit., pp. 378-382.

Chapter 3
The Military Clauses of the Paris Peace Treaties with Rumania, Bulgaria and Hungary

Mihàly Fülöp

Introduction

The liberation of Europe started with Stalingrad and the landing in Italy in the Summer of 1943. The United States, the United Kingdom and the Soviet Union had not originally prepared the partition of Europe into spheres of interest. From the Autumn of 1943 onwards, by establishing an European Advisory Committee (EAC) in London, by jointly formulating armistice terms, and by setting up the Allied Control Commissions for Italy, then for Rumania, Bulgaria, Finland and Hungary, they made an attempt to agree on a common policy. In October 1944, the British recognised the military dominance of the Soviet Union in Eastern Europe, but in their view this did not imply the introduction of Soviet-type systems.

The agreement between Churchill and Stalin on the division by percentage of war-time influence was an interim arrangement of military character for participation in the Allied Control Commissions, a compromise which in practice was ended with the three-power conference at Yalta - although the parties abided by the bargain later as well. The aim defined in the declaration of the 11th of February 1945 on liberated Europe was not division into spheres of interest but political coordination among the three powers, the establishing of democratic institutions and the restoration of lost sovereignty, with a view to forming provisional governments comprising all democratic parties. This was to be followed by free elections and stable governments in harmony with the will of the people.

The victorious powers considered three-power cooperation indispensable not only to the conduct of the war, but to a peace settlement and to the drafting of peace treaties as well. National governments implied coalitions uniting all anti-fascist forces in the East European countries. At the end of the war, the Soviet Union believed that such democratic multi-party systems would survive for about ten to fifteen years. Soviet strategic dominance in Eastern Europe and the priority of Soviet security interests were recognised by the British in the Autumn of 1944, by the Americans at the Foreign Minister's Conference in Moscow in December 1945. This came after the Soviets had conceded the priority of the Western Allies in Italy in the Spring of 1944, and in Japan by the Autumn of 1945.

Conflicts between the Great Powers arose from the fact that they were unable to map out a common European policy. The strength of the anti-fascist coalition proved sufficient to ensure peace treaties with Italy, Rumania, Bulgaria, Hungary and Finland before the end of 1946, but great-power cooperation broke down in the discussion of the central problems -- the treaties with Germany and Austria.

The Soviet government's interests in the territories that were brought under military control was different. It did not tolerate any meddling by the U.K. or the U.S. with regard to the creation of governments and communist dominance in the domestic affairs of

Poland, Rumania or Bulgaria. Indeed, the control of these territories gave the Soviet Union access to the heart of Germany and the Mediterranean. Elections were held in the Autumn of 1946 or the Spring of 1947, but the struggle in these countries was decided in advance by election fraud and police interference, by the ousting of opposition parties from political life, by exploiting the Soviet military presence, and (in the case of Rumania) by means of reparations.

The British -- and later the Americans -- put up with the existence of security zones that differed from their 1943 ideas, but they did not accept the principle of exclusive Soviet influence. In their interpretation, influence might be wielded by the West in Eastern Europe and by the Soviets in Western Europe. With regards to the main strategic lines, however, the Soviets interpreted influence in accordance with the precedent established in 1943 by the Western Allies in Italy.

In the Autumn of 1945 and the Spring of 1946, three countries -- of minor strategic importance to the Soviet Union -- Austria, Hungary and Czechoslovakia were able to hold free elections; the communist parties of the first two countries did very badly. Until the end of 1946 and early 1947, Stalin did not consider communist dominance to be important, rather he wanted the governing parties in those countries to pursue friendship towards the Soviet Union. At that time, the presence of Soviet troops was not crucial. They withdrew from Czechoslovakia in December 1945 and from Bulgaria towards the end of 1947. Moreover, troop withdrawals from Austria and Hungary were also under consideration during preparations for an Austrian Peace Treaty in early 1947.

Soviet foreign policy between 1943 and 1947 relied on the allied Slav states: Czechoslovakia, Yugoslavia and Poland. It centred around a possible future German threat. The Moscow agreement of December 1943 between Stalin and Benes served as a model for pacts of friendship, cooperation and mutual assistance. Accession to this alliance was made possible for the defeated states (Bulgaria, Rumania and Hungary) by bilateral agreements with Moscow and with one another in 1948.

The territorial status of the Soviet Union's prospective allies, the limitation of their military and economic sovereignty were regulated, in addition to bilateral arrangements, by the peace treaties agreed to by the British and American governments. Defeated Rumania lost Bessarabia, Northern Bukovina and the Southern Dobrogea, but was allowed to regain Northern Transylvania; the frontiers drawn up at Trianon in 1920 remained valid for Hungary -- with the loss of an additional three villages on the right bank of the Danube which formed a Czechoslovak bridgehead at Pozsony (Bratislava-Pressburg). On the other hand, Bulgaria -- which had been a Nazi satellite - increased her territory after the war. Through the recognition of the continued validity of the Rumanian-Bulgarian agreement of Craiova (7th of September 1940), it could retain Southern Dobrogea.

But no fairer treatment was extended to the countries allied to the Soviet Union. Poland received German territory in compensation for the parts ceded to the Soviet Union, but Czechoslovakia -- another victor -- was compelled in June 1945 to yield the Carpathian Ukraine to the Soviet Union. Thus a Soviet-Hungarian frontier came into existence. The strength of the armed forces of the defeated countries was limited; Soviet

troops were stationed in Rumania and Hungary in order to maintain lines of communication with the Soviet zone in Austria; the two countries paid $ 300 million each in reparations. Germans were expelled from Poland and Czechoslovakia, as well as, from Hungary, and Hungarians from Czechoslovakia.

The post-war new democratic start was coupled with landslide changes and huge movements of populations. The Central and Southeast European democratic systems came into being in keeping with the intentions of the Great Powers; the decisive role in their birth was played by the Soviet Union since the countries concerned -- except Yugoslavia -- had not themselves forced the German army out of their territory. When negotiating over Hungary in December 1945, Stalin told U.S. Secretary of State Byrnes that "the Soviet Union could do pretty much what it wanted there;" yet elections were not won by the Communists but by another party. This proved true for the whole region. The Soviet Prime Minister was of the opinion that to maintain the three-power alliance, the Soviet Union had exercised moderation or applied a self denying device by accepting multi-party systems and free elections, since it could have introduced a Soviet system immediately after the occupation of Eastern Europe.

The war-time alliance had definitively come to an end by the Spring of 1947 when negotiations over a German peace treaty ended in failure; this eliminated any considerations that might have moderated Soviet policy in Eastern Europe. The consequences are well-known. The Truman Doctrine and the Marshall Plan were followed by Cominform. Democracy in Czechoslovakia and Hungary was suppressed in 1948; Eastern Europe introduced a Soviet-type system, and all states (except Yugoslavia) became part of the Soviet alliance.

The Council of Foreign Ministers

At the end of the war, the allied Great Powers did not yet have any complete and jointly accepted plan for the elimination of armistice regimes and European settlement. The preconditions, the principles of procedure, the order of discussions and even the scope of the drafting powers were determined after long diplomatic battles between the three powers. It was in the course of these debates that the parties agreed upon the nature of the treaties, the venues and dates of the peace talks and above all, they took important decisions on restoring sovereignty and designating the final political frontiers of the defeated states.

The first agreement reached at the Berlin (Potsdam) Conference between the heads of states and governments of the Soviet Union, the United States and Great Britain was about the establishment of the Council of Foreign Ministers that represented the five great powers:

> "As its immediate important task, the Council shall be authorised to draw up, with a view to their submission to the United Nations, treaties of peace with Italy, Rumania, Bulgaria, Hungary and Finland, and to propose settlements of territorial questions outstanding on the termination of the war in Europe. The Council shall be

utilised for the preparation of a peace settlement for Germany when a government adequate for the purpose is established." [1]

The principles of procedure and the order of the five peace treaties agreed upon played a decisive role in the drafting of the peace treaties.

It was believed that the five peace treaties could be finished within months. Since, however, there was no adequate German government to conclude the peace treaty, the solution of the central issue of a European settlement had to be postponed, until the conclusion of the *Final Settlement* (and not a peace treaty) with Germany on September 12, 1990.

The three governments attending the Berlin Conference considered it their primary task to prepare the Italian Peace Treaty. Due to *order of discussions* of the five peace treaties adopted by the Berlin Conference -- Italy, Rumania, Bulgaria, Hungary, Finland -- the Italian question enjoyed priority while among the so-called Balkan Peace Treaties (Rumanian, Bulgarian, Hungarian), the Rumanian Peace Treaty had been given priority. The fact that the cases of Italy and the other "ex-enemy" states had been linked with each other at the Berlin Conference was the result of Soviet diplomacy. Despite their different war records, the above countries had been given *uniform judgment* and their "unsettled situations" were to be settled at the same time.

The Berlin Conference specified the concrete circle of the states to draft the peace frontier. "For the discharge of each of these tasks the Council will be composed of the Members representing those states which were signatory to the terms of surrender imposed upon the enemy state concerned. For the purposes of the peace settlement for Italy, France shall be regarded as a signatory to the terms of surrender for Italy. Other members will be invited to participate when matters directly concerning them are under discussion."[2]

The Peace Treaty for Italy had been drafted by the British, American, Soviet and French Foreign Ministers; the Peace Treaty for Rumania, Bulgaria and Hungary by the *Soviet, American and British*, and the peace treaty for Finland by the Soviet and British Foreign Ministers. In Paris, at the Second Session of the Council of Foreign Ministers (April 25, 1946), this ruling was modified. France took part in the negotiations of the Balkan treaties, though in practice confined her participation to suggestions and advice.

The Peace Aims of the Great Powers in 1945

Foreign Secretary Eden summarised the British-Soviet debates on Balkan issues to Churchill as early as May 25, 1945. Eden stated that "our aim in Rumania, Bulgaria and Hungary was to secure their evacuation by the Red Army and the establishment of independent governments."[3] The Foreign Office proposed *the early conclusion of peace*

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[1] *Foreign Relations of the United States Diplomatic Papers*. The Conference of Berlin 1945, hereafter *FRUS* 1945, The Conference of Berlin II. p. 1500.

[2] *FRUS 1945*. The Conference of Berlin II. p. 1500.

[3] L. Woodward, *History of British Foreign Policy in the Second World War*, vol. III., London, 1961, pp. 58-78.

treaties with the three countries concerned. An office meeting was held on the 7th of June to consider arrangements necessary for the negotiations of peace treaties with Rumania, Bulgaria and Hungary. It was thought that the Russians would inevitably demand the right to maintain military bases and troops in the countries concerned. The question arose whether it would be appropriate that positions to this effect should be included in the treaties. It was pointed out that if the British argued against their inclusion, the Russians would have no difficulty in securing any terms they wanted in bilateral agreements. It, therefore, appeared be more satisfactory from the Foreign Office point of view that the matter should be regulated in the peace treaties, since Britain should then at least know what concessions the Russians secured and would have some *locus standi* for displaying an interest in the matter.

There was some discussion of the relevance of this question to the intention of British military to maintain military installations in Italy. According to the Foreign Office meeting view "there could be no question of foregoing any advantage we might secure in Italy in the faint hope that this would induce the Russians to be less exacting in their demands on the Balkan countries concerned, but it was felt that in our Italian negotiations we should at least bear in mind the importance of avoiding, where possible, precedents which the Russians could quote as justifying their continued military control of the Balkan."[4]

By June 1945, the U.S. State Department insisted on the reorganisation of Rumanian and Bulgarian governments and free election as early as possible. These were prerequisites for the re-establishment of diplomatic relations and the conclusion of peace treaties. The United States supported with reservation the British proposal for the early conclusion of peace. They refused to conclude peace with the Rumanian and Bulgarian governments in office, even if this step accelerated the withdrawal of Soviet troops. After consulting the U.S. representatives in Sofia, Bucharest and Budapest, the State Department did not even believe that "conclusion of peace would necessarily result in withdrawal of Russian troops, especially if real political authority remains in the hands of communists."[5]

The State Department's "general approach to the peace treaties with Rumania, Bulgaria and Hungary" (a document written immediately after the Potsdam Conference) wanted to avoid a punitive peace settlement. The Americans believed that "war guilt" clauses, unjustified territorial amputations and undue military, political or economic restrictions would not be included in the treaties. It was hoped by this policy to avoid the division of the Central European and Balkan region into irreconcilable groups of "status quo" and "revisionist" states, which was one of the consequences of the last peace settlement, that explains why Southeastern Europe fell so easily under German domination. The State Department believed "that general security in the Danubian-

[4] *Foreign Office* (Public Record Office - PROFO) 371.48192R 10059. Contains a summary of the Debate in the British Foreign Office on June 7, 1945.

[5] FO.371.48192R 10742, 10766, 10768/81/67 11658/5063/67 *FRUS*, The Conference of Berlin 1945, vol. I p. 381, pp. 399-400.

Balkan area can be better secured by the United Nations Organisation and by regional arrangements which are in conformity with the United Nations Charter than by specific treaty restrictions on the military establishments or on the industries of the ex-satellite states."[6]

The Soviet revealed their military peace aims concerning Rumania, Bulgaria and Hungary at the first session of the Council of Foreign Ministers in London on September 11, 1945. Molotov insisted on discussing the draft peace treaties concerning Finland, Hungary, Bulgaria and Rumania "as one and the same question".[7] The Council of Foreign Ministers accepted in the case of Italy the British-American draft peace treaty as a basis of negotiations. For the other cases (Rumania, Bulgaria, Hungary and Finland), in turn, the Soviet draft was used to serve this purpose. This indicates the decisive role played in the peace settlement by the great power(s), who dictated the document of capitulation, and controlled the armistice. Under the Soviet proposal, the text of the armistices served as a basis for the peace treaties. Apart from a general disarmament clause, the Soviets avoided to discuss the withdrawal of Allied (Soviet) troops and to detail the limitation of Balkan land, sea and air forces!

The delegation of Great-Britain submitted its proposals for a peace treaty with Rumania and Bulgaria on September 17, 1945 and with Hungary on the next day.

The United Kingdom delegation agreed with the Soviet delegation that the relevant articles of the Armistice with Rumania (and Hungary) signed at Moscow provided a basis for the drafting of certain parts of the treaty of peace with Rumania (and Hungary), and assumed "that on the conclusion of the Peace Treaty all Allied Forces will be withdrawn from Rumania (and Hungary) (except as may be provided for the maintenance of the lines of communication of the Red Army with the Soviet zone of occupation in Austria)."[8]

Oddly enough, it was the British delegation which proposed the formula of stationing of Soviet troops in Hungary and Rumania until the conclusion of Austrian State Treaty. (The Soviet troops remained, in fact, on Rumanian soil until July 1958, and in Hungary until June 1991). The British delegation proposed that the Peace Treaties should lay down the character and numbers of the armed forces which the Balkan States would be allowed to retain; should impose the necessary limitations upon the manufacture of war material in these states; and should provide for a small inter-Allied military inspectorate to supervise the execution of the military clauses of the Treaty in succession to the Allied Control Commission, which would be dissolved upon the entry into force of the Treaty.

The American delegation "suggested a directive to the deputies from the Council of Foreign Ministers to govern them in the drafting of a treaty of peace" with Rumania and Bulgaria submitted on September 19, 1945. On September 21, 1945 concerning Hungary, "the maintenance of armaments for land, sea and air will be closely restricted to the necessities of: (a) maintenance of order in Hungarian territory, (b) local frontier

[6] Steven Kertész, *The last European peace conference, Paris 1946*, University Press of America, 1985, p. 70.

[7] *FRUS 1945*, The Conference of Berlin II. pp. 112-1.

[8] Council of Foreign Ministers (CFM) (45)21 and (45)24.

defence, (c) such military contingents, if any, in addition to the foregoing as may be required by the Security Council."[9]

The Council of Foreign Ministers debated the Rumanian draft on September 20, 1945. Molotov said that unlike Italy, Rumania was not a great power and had only fought against the Soviet Union. Rumania was not capable of maintaining a large army or a war-making potential which might threaten the peace of Europe. "Why then was it necessary to impose special restrictions on Rumania's military establishment? To restrict her armaments and still more, to impose on her an Allied inspectorate, would restrict her sovereignty and hurt her pride, without bringing any special benefit to the Allied cause."[10]

Bevin insisted on the establishment of an Allied inspectorate as a peace enforcement machinery and proposed that the smaller states should not be allowed to maintain armed forces larger than their economy could support. The sale of arms to small countries was also a potential source of danger. "Limitations of the armaments of the smaller powers would not only assist the national economy in those countries, but would limit the possibilities of another world war."[11]

Byrnes feared rivalry in armaments among the small nations, which would eventually lead to larger conflicts in which millions might be involved "Limitation of armaments would be the greatest boom to the Balkan peoples, whose economic condition was such that they could not maintain large armies and the same time restore the peace-time production which was essential to their economic health and happiness. If the great powers fulfilled their promise to prevent aggression through the United Nations Organisation, these countries would have no need of large armies."[12]

After this discussion, the Council agreed that the American proposal should be accepted as a basis for detailed study of this question. The latter should include the question of whether any machinery was required (either in the form of an Allied inspectorate or otherwise) for enforcing any restrictions which might be decided to impose on Rumania's military establishment. The Council also accepted the British proposal about the withdrawal of Allied forces (with L/C with the Soviet zone of occupation in Austria) on September 21, 1945. The Foreign Ministers agreed to withdraw *all* Allied Forces from Bulgaria on the conclusion of the Peace Treaty.[13] These decisions became the basic authority for the subsequent military discussions and the American formula was tacitly accepted as covering also Hungary and Finland.

The Withdrawal of Allied Troops Versus the Recognition of Rumanian and Bulgarian Governments

It was evident after the London Session of the Council of Foreign Ministers that Italy would to some extent form a precedent for the other treaties. The British and Americans could not hope to get army restrictions imposed in the Balkan treaties if they had not

[9] CFM (45) 36,35,40.

[10] PROFO.CAB 133.

[11] Ibid.

[12] Ibid.

[13] Ibid.

gotten them for the Italian Treaty. Early on, it became evident that the Russians were reluctant to agree to changes in the Italian Treaty which might be used against their interests in the Balkans. This particularly applied to machinery for Treaty enforcement.[14]

After the failure of the London session, Secretary of State James Byrnes initiated the continuation of peace talks in Moscow (December 15-27, 1945). Bevin and Byrnes informally discussed the Southeast European situation as well. At these talks with Molotov, Bevin urged the withdrawal of all Allied troops from the Balkans and also the reduction of the Austrian occupation forces. At the same time, the British Foreign Secretary resisted the idea to withdraw their troops from Greece and considered that Bulgarian army with Soviet support represented a serious threat to their security interest.

Bevin wanted to obtain the demobilisation of the Bulgarian army, and the withdrawal of Allied troops from Hungary and Poland. Molotov reminded the Foreign Secretary that the Red Army had withdrawn from Czechoslovakia, and that the presence of the Red Army in these countries had in no way hampered the extension of popular will.

On December 23 1945, Stalin explained to Byrnes that Soviet troops did not exercise pressure on elections in the Balkan countries, for example "in Hungary there were Soviet troops and in actual fact the Soviet Union could do pretty much what it wanted there, but that nevertheless the elections had resulted in a victory for a party other than the Communist party. This demonstrates that the Soviet Union was exercising no pressure through its troops in the countries. All the Soviet Union asks of these border states in proximity to the Soviet Union was that they should not be hostile."[15]

Following this discussion, the three Foreign Ministers agreed that their governments should advise Rumanian King Michael that one member of the National Peasant Party and one member of the Liberal Party should be included in the government. The Rumanian Government, thus reorganised, should declare that free elections will be held as soon as possible. A.I. Vyshinski, Mr. Harriman and Sir A. Clark Kerr were authorised as a Commission to proceed immediately to Bucharest to execute the above-mentioned tasks. As soon as these were accomplished and the required assurances were received, the government of Rumania was recognised by the United States and the United Kingdom at the beginning of February 1946.

The Soviet Government took upon itself the mission of giving "friendly advice" to the Bulgarian Government with regard to the inclusion in the latter's government of an additional two representatives from other democratic groups. After the failure of negotiating to broaden the Bulgarian Government, the recognition was postponed until after the peace talks.

The framework of the military clauses negotiations established at the Potsdam Conference and at the London and Moscow meetings, made the beginning of the expert discussions possible. The London Session of Deputies started work on the Military

[14] Chief of Staff Committee (C.O.S. (47)67). *Report by the Service advisers to the United Kingdom delegation at the Paris Conference on the Peace Treaties with Italy, Rumania, Bulgaria, Hungary and Finland on May 29, 1947.* (Hereafter Dove-Braithwaite report).

[15] F.o. CAB 133. A conversation on 23rd December at the Kremlin between Generalissimo Stalin and Mr. Byrnes.

Clauses in January 1946. A few articles were adopted with little discussion, but it became evident that most of them would require expert examination and the Naval, Military and Air and Joint Sub-Committees were set up accordingly and the relevant clauses referred to them. Thereafter reference to the Deputies was only made when agreed articles were put to them for final confirmation, or when agreement could not be reached on the service level.[16]

The Negotiations of the Military Clauses of the Balkan Treaties in 1946[17]

The discussion of the Rumanian, Bulgarian and Hungarian peace treaties started in March - April 1946 in the London Conference of Deputy Foreign Ministers. The Joint Committee of the military and air representatives negotiated the military clauses, and closely followed the Italian precedent.

The Deputy Foreign Ministers presented the first draft of the Rumanian Military Clauses on the 1st April 1946. The American proposal served on a basis for the limitation for the size of forces. The U.S. delegation wanted to reduce these forces to minimum level, still sufficient for the maintenance of order, local frontier defence and military contingents required by the UN Security Council. The British and American military representatives presented draft articles, but the Soviet delegation refused to accept the limitation of Rumanian forces. After May 7th, 1946 the shorter Soviet draft articles were taken as a basis for discussions. As compared to the Italian Military Clauses, the Soviets tried to obtain more lenient terms for Rumania and Bulgaria. The time limit for disbandment of excess forces, the prohibition of extraneous service training, the prohibition on excess war material, the disposal of excess war material, the duration of military limitations, the return of prisoners of war, the definition of military, air and naval training, the definition and list of war material in a shorter form, contained the same wording as in the Italian Peace Treaty.

The Soviet delegation wanted to avoid the numerical limitation of the Rumanian army. In the presentation of the armed forces of this country, the strength of the army was deliberately underestimated. The Americans pointed out that the Rumanian army's size could not exceed the relative strength of Italian army in comparison to her population, but nevertheless taking into account that the Rumanian land frontiers were relatively longer than the Italian ones. The British delegation tried to obtain equal strength for the Rumanian, Bulgarian and Hungarian Armed forces. As a matter of general policy, the British side did not want to allow Bulgaria larger forces than the Greek army and tended to reduce the ceilings for the Balkan states to a minimum in order to avoid producing counter-arguments for the Soviet Union to cut down the Italian army.

The negotiation lasted a long time on the question of minimum requirements for

[16] C.O.S. (47)67. Dove-Braithwaite Report.

[17] *Ibid.*

maintaining internal order and local defence of the frontiers. The American and British delegation succeeded to separate the limitation of anti-aircraft personnel from the army and frontier guards. The Soviets finally agreed to reduce the strength of Rumanian army by one third (compared to the estimate strength in the Spring of 1946) i.e. 120,000, and to 5,000 the anti aircraft personnel. These figures represented a compromise between the American (100,000), British (50-75,000) and Soviet (174,000) proposals and created an important precedent for the negotiations of Bulgarian and Hungarian army limitations.

In the limitation of Rumanian, Bulgarian and Hungarian air forces, the Soviet delegation argued to restrict these forces to the needs of defending local frontiers and the maintaining internal order. As the Soviet Union considered limiting the number of aircraft as superfluous, they required only a limitation of air force personnel. The British and American delegations compared the size of population, area of country, the number of vital centres to be defended between Italy and the Balkan countries and proposed the prohibition of bombers. In the discussions of the Rumanian case, the British attempted to reduce the air force to the minimum. They hoped to establish a precedent for Bulgaria, an all important issue for the protection of British interests in Greece.

At the end, the Soviet Union accepted a limit of 8000 men and 150 aircraft. The Naval discussions followed the same pattern. After discussions the Soviets agreed to limit the Rumanian Navy to 5000 men and 15,000 tons and accepted the British and American arguments to eliminate submarines torpedo-boats and special assault crafts.

The Rumanian, Bulgarian and Hungarian peace treaties omitted the restriction of some special weapons: the limitation 30 km -range guns and the abolition of motor torpedo boats that have been included in the Italian Treaty. In the first case, the American and British delegations accepted the Soviet argument that the Balkan countries had neither the engineering ability nor the capacity to make such guns. The motor torpedo boats, on a French initiative, were mentioned in the Italian Peace Treaty. At the Paris Conference, Italy and Greece both contested the absence of the prohibition of such special assault crafts in the Balkan treaties. The Soviet Union, after long discussions, finally accepted this amendment. The prohibition of atomic weapons, included at the Paris Conference, in the Italian Treaty, were applied to the other treaties as well.

The withdrawal of Allied forces (Article 21 of the Rumanian Peace Treaty) was the most important military clause which limited the sovereignty of this country. This question was neither mentioned in the British draft of the Italian Peace Treaty nor in the Soviet draft of the Rumanian and Hungarian peace treaties. The British intended to retain lines of communications through Italy to Austria so long as the British occupational forces remained in the latter country. At the September 1945 meeting of the Council of Foreign Ministers, agreement was reached that Allied forces would be withdrawn from Rumania, except for those needed for the Soviet lines of communications to Austria and would be withdrawn *in toto* from Bulgaria.

At the second session of the Council of Foreign Ministers, the Soviet delegation indicated that they might go back on their agreement over Bulgaria and leave troops ostensibly on a line of communication to Austria. Molotov linked the Soviet withdrawal from Bulgaria with the Allied troops withdrawal from Italy.

In the ensuing discussions, the British pointed out that the British Zone in Austria had no connection with other British occupied territory, and that Bulgaria is not on the direct route to Austria from Soviet territory. The Americans, after this meeting, granted the necessary facilities to supply the British troops in Austria through the United States Zone in Germany. On 20th June 1946, the Soviet Foreign Minister finally gave up this position and agreed to Allied withdrawal within 90 days from both countries.

The military articles of the Bulgarian Treaty closely followed the corresponding articles of the Rumanian Treaty. The Great power agreed that the clauses of the Balkan and the Finnish peace treaties should be similar. The only differences concerned the Articles of the strength of the Bulgarian army, anti-aircraft personnel, air force, and navy, and the restrictions on Bulgarian frontier fortifications.

The application of the Rumanian precedent i.e., the reduction of army strength in the same proportion to the population as that of Rumania, resulted in a Bulgarian army of about 45,000. The British were anxious to limit Bulgarian forces well below those planned for Greece and argued that the forces allowed to them should bear a reasonable relation to their population, size, frontier and European status. The Soviet delegation insisted that no quantitative restrictions on the Balkan states and Finland were necessary. Molotov argued that relative to her population, Bulgaria had longer frontiers than Rumania and therefore needed a relatively larger army to defend them. The American and British delegations accepted to raise the strength of the Bulgarian army - including frontier guards - to 55,000. The British and American experts aimed to prevent Bulgaria from waging a war of aggression against Greece by assuring a modicum of goodwill from Bulgaria to implement the Military Clauses. They disregarded the fact that Bulgaria played a key role in the Soviet Mediterranean Strategy and never applied the initially planned reductions after the withdrawal of Soviet forces from Bulgaria.

The drafting powers examined the sizes of the Bulgarian and Hungarian air forces together. The British and Americans contended that the Bulgarian and Rumanian air forces should bear the same relation to each other as did their armies. Only then did the Soviet delegation realise that their agreement over Rumania created a precedent and was going to make it difficult for them to secure what they regarded as an adequate air force for Bulgaria. They raised the figure to 5200 men and 90 aircraft from 5000 men and 52 aircraft (5000 for Hungary), but the Soviet Senior Air Adviser, General Belov, had clear political instructions that Bulgaria was to receive better treatment than Hungary, and a larger air force than Greece. The Americans succeeded in reducing the number of Bulgarian combat aircraft to 70.

In the same way, unlike in the case of Rumania and Finland, the Soviets fought for six weeks in Paris over the size of the Bulgarian navy, for which they proposed a tonnage about ten times their pre-war strength. Finally a size half this figure was agreed upon.

At the Paris Conference (July 29th - October 15th, 1946) the Greeks sought to restrict Bulgarian frontier fortifications on the same wording as in the Italian Peace Treaty. A similar amendment to the Hungarian Treaty forwarded by Czechoslovakia had the Soviet support. The Americans and British reluctantly accepted the principle of limiting frontier fortifications. The Greeks at this moment introduced the question of frontier *rectification.*

The linkage of these questions made it possible for the Americans to use the fortification issue as a consolation prize. The American and British delegations therefore argued that the great powers could not deny to a small ally (Greece) what they had already given to larger ones (France and Yugoslavia). The Soviet delegation contested this, stating that a small country (Bulgaria) could not be treated on the same basis as a large country (Italy). In the final session of the Council of Foreign Ministers (November 4th - December 12th, 1946), the Soviet delegation finally withdrew their objection to the proposed frontier rectifications.

The Greeks presented these claims to advance their frontier to the North for military considerations at the expense of Bulgaria in Macedonia and Thrace. At the instigation of the Soviets, the Bulgarians put in a counter-claim for part of Thrace, including the port of Dedeagach. The Americans opposed firmly both claims, and the British initially supported the Greek claim. The Military Commission of the Paris Conference implicitly recognised that the Greek frontier rectification proposal will not improve overall security of the region, only the possibilities of local defence of that country. The Bulgarian political commission of the Paris Conference defeated the Greek proposal, and finally the Council of Foreign Ministers agreed to refuse any frontier modification.

As mentioned, the negotiations of the Hungarian Military Clauses closely followed the Bulgarian model. The Soviet Union reduced the Hungarian army to 25,000 in 1945. In the discussions, the British tried to apply the principle of relating the size of the army to the population and proposed 70,000 men in order to exceed the size of Bulgarian army. The Americans moved for the number of 60,000 men. Surprisingly, the Soviets closed at 65,000, including anti-aircraft and river flotilla personnel. The strength of the Hungarian Air Force, as already described, was somewhat less than the Bulgarian Air Force.

Article 15 of the Hungarian Peace Treaty, as in the other Balkan and Finnish treaties, limited the special naval weapons. The report by the service advisers to the United Kingdom delegation, Brigadier A.J.H. Dove and Group-Captain F. J. Sr. G. Braithwaite explained the inclusion of this article in the following way:

> "Odd though this may seem, since Hungary has no navy, it was not the result of careless drafting. The article is designed partly as a precaution to hinder German rearmament, as well as to restrict the forces of the ex-enemy country itself. Experimental work on torpedoes, special assault craft and small submarines can well be carried out on inland waters, such as Lake Balaton and submarines can be constructed in sections and moved by rail to a port for assembly. The references to naval weapons are thus of some value."[18]

The Implementation of the Military Clauses of the Peace Treaties with Rumania, Bulgaria and Hungary

At the moment of entry into force of the peace treaties, the Balkan countries started from different level of strength of the armed forces. The British Military estimated that

[18] *Ibid.*

Hungary had a 15,000 men army (including 7,000 Frontier Guards), 25,000 men in the security troops; Bulgaria 60 - 70,000 army, 10,000 frontier guards, 100,000 militia; and Rumania's army strength attained 100,000 men, 20,000 frontier guards and 32.000 gendarmerie. The British tried, in vain, to eliminate Soviet troops from Rumania and Hungary, concomitantly with the Anglo-American withdrawal from Italy on December 15, 1947. They argued that there was no military justification for the Soviet position since the shortest and by far the most efficient means of communication between Russia and Austria lies along the railway route through Southern Poland and Czechoslovakia. The British and Americans failed to obtain a limitation on the number of Russian troops.

From the very beginning, the fulfilment of the Military Clauses of the Balkan Treaties was governed by Soviet wishes. The Soviet government defeated all efforts of the American and British to make the tripartite Minister's Council (Article 39 of the Hungarian Peace Treaty, Article 37 of the Rumanian and Article 35 of the Bulgarian Treaties) an effective control body. The Soviets had entire responsibility for their unilateral actions, pursuing the build-up of their military alliance. The Americans and British were circumvented to ensure that the armed strengths officially maintained in these countries did not exceed limits laid down in the treaties, and kept themselves informed by undertaking inspections. In the case of Hungary and Rumania, the British and Americans also failed to ensure that the location of the Soviet troops would be limited to the Soviet lines of communications.

The Americans and British had no real lever to use against these governments and dropped the idea of bringing an effective case against Rumania, Bulgaria and Hungary, because they evaded treaty obligations with the Soviet support. Italy's integration in the North Atlantic Alliance made it difficult to circumvent Soviet veto and obstruction. The ensuing violations are demonstrated by the history of the Hungarian implementation of the military articles. Most probably, Rumania and Bulgaria followed exactly the same pattern.

The Fulfillment of the Military and Aviational Clauses of the Hungarian Peace Treaty[19]

With the signing of the Hungarian Peace Treaty and its parliamentary ratification the legal ground for the development of the Hungarian army was created, and the progressive establishment of the armed forces could begin. The Ministry of Defence wanted to create the 65,000 strong Hungarian army permitted by the Peace Treaty, through a long-run, well-considered development plan, keeping in mind the economic potential of the country. In the preparatory period of the development (1947-1951), the aim was to bring about the army's training and educational frame, the new democratic professional officer and non-commissioned officer staff with high professional knowledge. At the end of preparatory period, the planned strength of the army would have reached 35,000 men.[20]

[19] I would like to thank the contribution of Imre Okvàth (Research Fellow - Institute of Military History, Budapest).

[20] *Military History Archivum* (MHA). "Documents of the Supervisor of the Hungarian Army" (DSHA) 16. box, p. 141.

The progressive build-up plan of the army changed from September 1947 due to the turns in foreign and home politics. Coming home from the session of the Cominform, Mihàly Farkas and Jozsef Révai suggested in their memorandum to the Political Committee of the Hungarian Communist Party -- among other things -- the revision of the views on the progressive establishment of the armed forces. The new development plan (January 1948) -- worked out mainly by the Communist Party -- thought that the size of the well trained, well equipped new army could be achieved in four years (1 October 1948-1 October 1952). The idea of exceeding the peace strength of 65,000 first arose during the working out of the plan, because this number -- as a basis for mobilisation -- was considered small. Taking into account Hungary's population, the country could have been able to set up an army of 1 million mobilised men. At a time of mobilisation -- taking into account the triplication of certain units -- the army of 1 million men could be achieved from an army of 300,000 men (the first step of mobilisation). To achieve this a peace strength of 100,000 would have been needed.[21]

From Spring 1949, the Hungarian political and military leadership -- in agreement with Stalin's views on the international situation - considered American preparations for the third world war as the main reason for the progressive build up of the armed forces. It became the conviction of the Hungarian party leadership that in a few years the United States would start a war against the Soviet Union and the so-called people's democracies. For this reason -- in accordance with Soviet wishes -- it decided to speed up the progressive build-up of the armed forces and lift the number and combat formations. As a major objective, it wished to reach a military potential needed to block the feared "imperialist" attack and be victorious, to establish a large mass army with conventional weapons. In order to achieve this, they charged the earlier development plan in such a way that these goals could be reached by the end of 1951.[22]

On the 16th of November 1949, the decision of the Cominform, which listed Yugoslavia among the aggressive imperialistic countries preparing for war, changed Hungarian military politics too. From this time on, the Hungarian army's main task was to block a supposed attack coming from Yugoslavia and to organise a successful and effective counterattack. In the atmosphere of war psychosis - seeking to reach the needed mobilisation standard of the Hungarian army as soon as possible, the higher political-military leadership was not concerned with the military clauses of the Peace Treaty nor with keeping them.

Under the shadow of military confrontation, it was not in the interests of the great powers to check if there was strict compliance with the Peace Treaty. Moreover, it did not make sense to take sanctions against those countries that were their satellites; as for those countries that were not satellites, there was no possibility to do so. Thus, the possible non-compliance with the Peace Treaty clauses were, probably, implicitly understood.

For the first time, the Hungarian army violated the Peace Treaty in September/ October 1948 when it bought and set up 102 various aircraft from Czechoslovakia and the Soviet Union[23] (Point b., of Article 12. allowed 90 aircraft, 70 combat aircraft).

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[21] MHA. DSHA. 4. box, pp. 100-101.

[22] MHA. Ministry of Defence (MD) Subdepartment for Equipment Planning (SEP) 1949. box 137.

[23] MHA. Symposium (S) II. - II/E-1/a p. 7.

Article 14 was also disregarded. This Article forbids the military training of personnel not serving in the army and the military preliminary training. On the 19th of October 1948, the head of the training department of the Ministry of Defence informed the headquarters of the Hungarian army to start training outside the army. This happened through the militarily important (technical) sports, of which the directing branch became the technical department of the National Sport Office. With its leadership the technical sports were done through the Popular League of the Hungarian Youth and the Hungarian Freedom Fighters Alliance. Inside the Hungarian army matters in connection with these were dealt with by the Department of Training and Sports and Special Field Officers assigned to the regional commands.

In 1950, the Council of Ministers ordered universities and colleges and also party college training of outside troops in order to supply the needed amount of reserve officers.[24]

The allowed strength of the army was surpassed at the end of 1950 (87,900 men); and in 1952 they reached the largest strength of the army so far with 202,545 men. The strength of the Hungarian army between January 1953 and January 1956 moved from 120,000 to 186,000.[25] An important decrease came about after the 1956 October Revolution: the strength of the army at the beginning of the 1957 was around 88,000 men.[26] After the transitional period (1957-1960) and to developments started according to the needs of the Warsaw Treaty, the strength of the Hungarian army (1960-1990) was around 130-140,000 men. Today it is 105,000 men.

The authorised number of 5,000 was not kept either at the air force, since this was 10-14,000 men between 1951-1956. The number of aircraft during this period varied from 200 to 500, including the prohibited bombers too.[27]

In 1951 with the setting up of 12 M-13 (Katyusha) multiple rocket launchers within the 66th Multiple Rocket Launcher Brigade, the specifications of the 15th Article were also disregarded. The brigade was reorganised in November 1953 -- in accordance to the government programme of July 1953 -- to a regiment and later, in the Autumn of 1954, it was requalified into a trench-mortar regiment under the 5th Motorised Rifle Division.[28] This type was concentrated into central stock in 1956 and later exported. A newer, theatre fire-power and larger range multiple rocket launcher, the BM-21, was introduced in the Hungarian People's Army in 1969.[29]

The medium range SZA-75 M (Dvina) air defence rocket system was set up in the air defence system in 1959 which was in service from the 19th May 1961.[30] The MIG-19 type fighter of the air force was equipped with rockets also in this year.[31]

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[24] MHA. MD. Presidium (P) 2948. 41728; MD Secretariat (S) 1951. 1. box, p. 75.

[25] MHA. 102/05/315.; MDP. 1949 - 303.314.

[26] MHA. MD. SEP. 1957. 187. box.

[27] From 1953 there were 59 TU-2 medium bombers in the air force, see MHA. 102/05/315.

[28] Keeping the 12 rocket-launchers.

[29] MHA. S. II. 330/047/V.-5. p. 21 and p. 27-28.; IV/B-3/b. p. 46 and pp. 102-103. In 1970 there were 32 BM-21; in 1973 and 1980 there were 66 of these.

[30] MHA. S. II. IV/B-4 pp. 18-21.

[31] MHA. S. II. II/E-1/a. p. 89.

The RPG-2 anti-tank rocket-launchers appeared at the motorised rifle units in 1960 (6 in 1960; 1003 in 1965). The later model, the RPG-7 was put into service from 1965. This had an optical sight, longer penetrating power and larger reach.[32] The SZPG-9 D type platformed grenade launcher was introduced in 1966 (in 1970 177; in 1975 287; in 1980 269).[33]

Experiments were made from 1952 to work out ways for passive defence against an atomic attack. With the help of the Institute on Military Technique, a research group worked on a device with which the same effect could be achieved on a small area as on a larger one with an atomic bomb. The aim of the experiments was to obtain information for the organisation of defence against an atomic attack (what material should be used for shelters, how thick the walls should be and also measuring the level of radiation on the field, on machines, etc.).[34]

By 1952, the Hungarian arms production provided small arms, artillery weapons and mortars and the optical and other artillery instruments needed for the Hungarian army including the mobilisation stocks. This meant violation of Article 16 which said that above the quantity needed for equipping an army of 65,000 men, Hungary is not allowed to keep or produce military equipment.

Finally it is possible to say that Hungary -- as a member of the Soviet led military alliance -- in order to prepare for war and to strengthen the military potential of the Hungarian army violated most of the military and aviational clauses of the Peace Treaty. This violation of the Treaty happened under the influence of the Soviet Union.

The implementation of the military clauses of the peace treaties became impossible because the establishment of Atlantic and Soviet alliances impeded from one side Italy, on the other side Rumania, Bulgaria and Hungary, to fulfil their obligations. The disunity of anti-fascist Allies led to the Cold War. The Soviet Union forced her small allies to violate the military clauses of the peace treaties. At the same time, the non-conclusion of the Austrian State Treaty helped the Soviets to maintain an unlimited number of Soviet troops in Rumania and Hungary. The Americans and British had no possibility to control or enforce treaty -implementation. They upheld the entry of those countries in the United Nations until 1955, but they were forced to give up protests for the violation of human rights and military clauses, because the Soviets were in effective control.

The Rumanian, Bulgarian and Hungarian governments never tried to formally revise the military clauses of the peace treaties, even after the precedent created by the Finnish and Austrian diplomacy. The debate about the contents of the peace-treaties was "frozen" for decades. Only the dramatic changes in 1989-1992 in Central and Eastern Europe re-opened the question of the European peace settlement after the Second World War.

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[32] In 1965 1732; in 1970 1832; in 1975 1679; in 1980 1655.

[33] MHA. S. II. IV/B-3/b. pp. 100-102.

[34] MHA. MD. S. 1952. 2. box, p. 196-197.

Chapter 4
Finland: Peace Treaty of 1947

Pauli Järvenpää

Historical Background

In the Winter War of 1939–40, Finland successfully defended its independence against the Soviet Union. Bereft of allies, the Finns fought alone against a numerically superior aggressor before being worn down after more than three months of stubborn resistance. By the terms of the Peace of Moscow on 12 March 1940, Finland was compelled to cede one–ninth of its territory to the Soviet Union. Otherwise, the country managed to survive with its social and political fabric intact.[1] After an uneasy period of interim peace, Finland once more entered into hostilities with its neighbour on 25 June 1941, this time as a co–belligerent of Germany. This war, called the Continuation War by the Finns, was seen as a separate war and, indeed, as a continuation of the Winter War to right the wrongs suffered by Finland. By the end of 1941, Finland had managed to regain the territories lost in the Winter War and, in addition, the Finnish troops had penetrated deep into Soviet Karelia, where they were to remain for the next two and a half years.[2]

Meanwhile, the major Allied Powers – Great Britain, the United States and the Soviet Union – had agreed during their wartime negotiations that unconditional surrender would be demanded from Germany. The armed forces of countries held to be its "satellites" – Italy, Hungary, Rumania, Bulgaria and Finland – were to be turned against their former ally in order to speed up the final stages of war. Furthermore, there was to be a nearly complete disarmament of enemy nations, following the procedure established in the case of Germany and Austria at the end of the First World War.

By 1944, the policy of the Western Allied Powers toward Finland became firmly established. As early as in December 1941, Britain had declared war on Finland at the request of the Soviet Union. The United States, on the other hand, never declared war on Finland but instead saw the maintenance of diplomatic relations as a means to counterbalance the political, military and economic pressure applied by Germany on Finland. Also, after the heroic resistance of the Finns in the Winter War, American public opinion was well disposed towards Finland.

Through several offers of mediation, the United States tried to secure a separate peace for Finland, but in vain: the Finns held fast to the pre–Winter War borders, while the Soviet Union demanded those of the Peace of Moscow. Also, the Soviet demands for war reparations were considered to be vastly excessive by the Finnish leadership. Further-

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[1] The best single volume on the Winter War in English is Max Jakobson, *The Diplomacy of the Winter War. An Account of the Russo–Finnish War, 1939–1940*, Harvard University Press, Cambridge, Massachusetts, 1961. For an excellent military analysis of the war, see Tomas Ries, *Cold Will. The Defence of Finland*, Brassey's Defence Publishers, London, 1988.

[2] For example, see Chapter 5, "The Continuation War: 25 June 1941 to 4 September 1944", Ries, *op.cit.*, pp. 127–160.

more, as the West offered no guarantees, the Finns did not trust the Soviet Union and chose to wait, hoping that the Finnish case would be taken up in a general European peace conference, assumed to follow soon after the Allies emerged victorious in Europe.[3]

In June 1944, the Soviet Union launched a full–scale offensive in the Karelian Isthmus, driving the Finnish forces back beyond the frontier of 1939. By the middle of July, the Finnish army managed to get the military situation stabilised, and the country avoided occupation. In its desperation, the Finnish government had in late June turned to Germany for help in thwarting the Soviet onslaught. On 26 June 1944, President Risto Ryti wrote a letter, addressed directly to Hitler, in which he promised that Finland would not make a separate peace. However, President Ryti's personal letter was annulled upon his resignation from office in early August. On the 17th of August, Marshal Mannerheim, President Ryti's successor, informed the Germans that Finland intended to seek a separate peace with the Soviet Union and that the promise made by his predecessor was no longer valid.[4]

Peace talks could now begin in earnest. In accordance with the principles adopted at the Moscow Conference of Allied foreign ministers in 1943, the Soviet Union, as the country that had borne the main burden of the war against Finland, had the right to determine the terms of the armistice. A cease-fire stopped the hostilities on 5 September 1944. The terms of the Armistice Agreement signed in Moscow on 19 September were harsh. They included: the borders of the Peace of Moscow should form the basis of negotiation, Finland should hand over the Petsamo harbour and the corridor to the Arctic Ocean, should lease the Porkkala peninsula, next to the capital, to the Soviet Union, and pay war reparations to the Soviet Union. The agreement also included a rather vague stipulation on the restoration of Finland's defence forces to peacetime levels, "to place its army on a peace footing within two and a half months." The Allied Control Commission, with a token representation from Great Britain, but dominated by the Soviet Union, was given the right to work this out in greater detail.[5]

On 5 October 1944, the Allied Control Commission arrived in Helsinki, headed by Colonel–General Andrey Zhdanov, one of Stalin's closest aides and Party leader in Leningrad. According to the appendices of the Armistice Agreement, the Control Commission was an instrument of the Allied (Soviet) military command whose main duty was to see that the Finnish government carried out the terms of the Armistice to the letter and on time. In fact, the word "Soviet" was always added in brackets after the term "Allied", to denote that the Soviet Union was the main power in the Commission in Finland.[6]

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[3] For further discussion, see Tuomo Polvinen, "The Great Powers and Finland 1941–1944 " in Ermei Kanninen, *et.al, Aspects of Security. The Case of Independent Finland*, Finnish Military History Commission, Helsinki, 1985, pp. 133–152. See also John Erickson, *The Road to Berlin. Stalin's War with Germany*, vol. 2, Weidenfeld and Nicolson, 1983, esp. pp. 161–162, 196–197, 204–205 and 422–423.

[4] See Tuomo Polvinen, Between *East and West. Finland in International Politics*, 1944–1947, Werner Söderström, Helsinki, 1986, pp. 13–23.

[5] On the Moscow Armistice negotiations between the Finns and the Russians, see Polvinen, *op.cit.*, pp. 24–36.

[6] Polvinen, *op.cit.*, p. 58.

At the insistence of the Control Commission under Colonel–General Zhdanov, Finland's Defence Forces were to be reduced to the pre–war level, meaning a reduction in strength to less than 40,000 men. It was a tall order, since the total strength of the Finnish Defence Forces in July 1944 was 528,000 troops, 36,000 of which were non–combatant women. The strength of the actual combat forces was approximately 450,000 men. Land forces comprised fourteen infantry divisions and one armoured division, five infantry brigades and one dismounted cavalry brigade. In particular, the strength of the Finnish artillery was important.

At the end of the war, the field artillery totalled 1025 guns and more than 2 million rounds of ammunition, i.e. over 2000 rounds for each gun.[7] The Home Guard organisation which had been responsible for reservist training in the pre–war period, was disbanded and the weapons and equipment of all the demobilised troops were gathered at a small number of large central depots. The detailed terms of peace, however, were left to be decided in the peace conference, to be convened at a future date as soon as the war in Europe was over.

The Paris Peace Conference

In September 1945, the foreign ministers of the Allied Powers met in London to prepare a common stand on the peace treaties to be negotiated with the vanquished nations. In Finland, public expectations aroused a rapid progress toward final peace treaties, and it was also hoped that the severity of the September 1944 Armistice Agreement could be alleviated in the final treaty. In particular, there was a belief held, not only by most of the leading politicians but throughout the society as a whole, that the Western powers, Great Britain and the United States, would sympathise with the Finnish plight and intervene on Finland's behalf.[8]

Little did the Finnish public know, however, of the basic differences that had emerged in London between the participants as to what kinds of military restrictions would be demanded of the vanquished nations.[9] The Allies were in basic agreement about restrictions on Italy, but the Soviet Union firmly opposed the British and American suggestion that there should also be severe restrictions on the armed forces of the smaller countries.

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[7] Pekka Visuri, *Evolution of the Finnish Military Doctrine 1945–1985*, War College, Helsinki, 1990, p. 15.

[8] It should be noted that the expectations of some of the leading politicians were much more realistic. Prime Minister J. K. Paasikivi wrote in August 1945 in his diary: "Finland's position may become worse. It is not the small nations which decide things now, but the large ones which draw the borders they want on the map; the victors decide." See, J.K. Paasikiven, *päiväkirjat 1944–1946, I osa*, Werner Söderstöm, Helsinki, 1985, p. 247. (Translation is this author's.)

[9] For a well–documented study of this question, see Pekka Visuri, *Pariisin rauhansopimuksen sotilasartiklat: Suomea koskevien rajoitusten synty ja tulkinnat*, Tutkimusselosteita No. 8, Sotakorkeakoulu, Sotatieteen laitos, Helsinki, 1990. A brief English version of this study is available as *The military, naval and air clauses of the Paris Peace Treaty: the origins of limitations concerning Finland and problems of interpretation*, published in Finnish Features, Ministry for Foreign Affairs, Helsinki 13/1990.

The Soviet delegation, led by Foreign Minister Molotov, argued that it was necessary to distinguish between the large and more powerful countries, like Germany and Italy, and the small countries, like Finland. The British strongly disagreed. Behind the British intransigence lay the suspicion that the Soviet Union might try to gain a political and military foothold in these smaller countries and, even worse, turn them into its military allies.[10]

The core of the problem was not Finland but the Balkan situation, and its case became entangled in that issue. With its understanding of the Yalta agreements, the Soviet Union wanted to keep the Western powers from meddling in Romanian, Bulgarian and Hungarian affairs. The Western Allies, Great Britain in particular, were focusing on the security of Greece. The British had plans for an armed force of some 100,000 men for Greece, so in the Western view, the armies of Greece's neighbours had to be restricted accordingly to eliminate the risk of aggression. Particularly Bulgaria and Rumania were considered to fall in the Soviet sphere of interest, and if armed without restrictions, they might pose a military threat to the Greeks.[11]

The Western view prevailed at the end. In a series of conferences in early 1946 between the Allies' foreign ministers, the Soviets reluctantly accepted the position held by the other Allies.[12] First, the Soviet Union accepted the Western proposals for restricting the manpower and the armaments of the armed forces of the Balkan countries and Finland. In addition to quantitative limitations, qualitative restrictions were to be imposed. For example, a ban on the use by these countries of bombers, missiles, submarines, and certain types of mines was included in the draft peace treaties. Furthermore, the acquisition and manufacture of military equipment beyond that deemed necessary for pure defence requirements was similarly banned. Finally, any surplus equipment originating from the Allies or Germany would have to be surrendered to the Allies within a year after the signing of the peace treaties.

The Finnish government was kept completely in the dark about these preparatory conferences. It received information about the military clauses just before the beginning of the peace conference, and it was assured that Finland would be given the opportunity to present its opinion. Finnish hopes were, however, not high, as the long–awaited twenty–one nation peace conference was finally convened in Paris at the end of July 1946. It was understood in Helsinki that the general tone of the Peace Treaty was dictated by the Soviet Union.

Finland was at the mercy of that country's good will, at least as long as the Control Commission stayed in the country. Therefore, the general instructions issued to the delegation travelling to Paris, signed by President Paasikivi on 9 August, stated that it was to be remembered at all stages of the talks that "the achievement and maintenance of permanent and positive friendly relations with the Soviet Union lie at the very basis of

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[10] See Polvinen, *op.cit.*, pp. 143–148.

[11] For a good discussion of the issue, see John Lewis Gaddis, *The United States and the Origins of the Cold War*, 1941–1947, New York, 1972.

[12] For a detailed discussion, see Polvinen, *op.cit.*, pp. 196–208.

Finnish foreign policy."[13] The Finnish case in Paris was therefore to be presented with utmost care and caution.

No support was forthcoming from the Western Allies, although the Finns did not fully understand the reasons behind the Western reluctance to take a stand in their behalf. It was not known to the Finns that, for example, as early as the Summer of 1945 the British Chiefs of Staff Committee had suggested in its report that in the future Finland's defence forces would likely end up on the side of the Soviet Union, therefore, restrictions on the Finnish defence capabilities were recommended. For the same reason, demilitarisation of the Aaland Islands would also be ascertained. These islands had no intrinsic value to the Western Allies, but it was feared, particularly in Great Britain, that in a future conflict they might fall into Soviet hands and could be used as a stepping stone for Soviet military operations in Scandinavia, which was growing in strategic importance in Western military calculations.[14]

The Finnish delegation to the Paris Peace Conference tried to cautiously argue its case. According to Paasikivi's instructions the delegation tried to double the maximum set to the Finnish navy from 10,000 tons to 20,000; proposed that the limit on aircraft be raised from 60 to 200; suggested that instead of a total ban small submarines could be maintained; and argued the case of retaining military equipment for six army divisions.[15]

These arguments, however, had no effect whatsoever. The Peace Treaty was simply handed down, in the version negotiated by the Allies amongst themselves, to the Finns to be signed. The Finns considered the conditions to be unnecessarily harsh. On the other hand, the military clauses of the draft treaty were clearly secondary, as compared with such stipulations as the ceding of Karelia, Petsamo and Salla, the leasing of Porkkala to the Soviet Union as a naval base or the paying of war reparations. What also worried the Finns was that many of the draft treaty's articles, as they were written, were imprecise and open to interpretation. Paasikivi's comment that "any Finnish law student who wrote such a text would be failed" captures the Finnish feelings well.[16]

The Military Clauses

The Finnish authorities received the final text of the draft peace treaty in January 1947 for examination. Although President Paasikivi had bitter words about a phrase in the Treaty preamble that spoke of a settlement in accordance with the principles of justice[17], the Finns were certainly aware of the positive political impact of finally being able to get a peace treaty in order to be able to re–establish its international position. The government presented the text for Parliament's approval on 21 January 1947, which unanimously approved it on 27 January 1947.[18] The official signing ceremony of the Peace Treaty took

[13] Quoted in Polvinen, *op.cit.*, pp. 231.

[14] Visuri, *op.cit.*, p. 7.

[15] Visuri, *op.cit.*, p. 8.

[16] Quoted in Polvinen, *op.cit.*, p. 232.

[17] See Polvinen, *op.cit.*, p. 259.

[18] Mauno Jääskeläinen, *Sodanjälkeinen eduskunta*, 1945–1963, Helsinki, 1980, pp. 354–55.

place in Paris on 10 February 1947. Finland ratified it on 18 April 1947. After all the participants to the peace conference had in due course ratified their treaties, the Peace Treaty finally came into force on 16 September 1947.

In the preamble, Finland was recognised to have had "loyally fulfilled the conditions of the armistice agreement" and by so doing had made the signing of the Peace Treaty possible. The Peace Treaty between Finland and "the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, Australia, the Byelorussian Soviet Socialist Republic, Canada, Czechoslovakia, India, New Zealand, the Ukrainian Soviet Socialist Republic, and the Union of South Africa," of 10 February 1947, comprised of six parts arranged into thirty-six articles: territorial clauses, political clauses, military clauses, reparation and restitution, economic clauses and final clauses. Only those clauses having to do with military, naval and air restrictions will be discussed in detail.[19]

The military clauses were contained in Part III of the Peace Treaty. First, it was noted that the maintenance of land, sea and air armaments and fortifications will be restricted "to meeting tasks of an internal character and local defence of frontiers." The strength of the Finnish Armed Forces, according to Article 13 of the Treaty, was confined to:

- A land army, including frontier troops and anti–aircraft artillery, with a total strength of 34,400 personnel;
- A navy with a personnel strength of 4,500 and a total tonnage of 10,000 tons;
- An air force, including any naval air arm, of 60 aircraft, including reserves, with a total personnel strength of 3,000.

It was specifically mentioned that Finland shall not possess or acquire any aircraft designed primarily as bombers with internal bomb–carrying facilities nor shall it possess or acquire submarines for its navy. It should also be noted that the manpower strengths in each case were established to include combat, service and overhead personnel.

Further restrictions were contained in other clauses of the Treaty. In Article 14, it was stated that "the personnel of the army, navy and air force in excess of the respective strengths permitted under Article 13 shall be disbanded within six months from the coming into force of the present Treaty." Significantly, according to Article 14, "personnel not included in the army, navy or air force shall not receive any form of military training, naval training or military air training as defined in Annex II."

From the point of view of future qualitative development of national defence capability, Article 17 was crucial: "Finland shall not possess, construct, or experiment with any atomic weapon, any self–propelled or guided missiles or apparatus connected with their discharge (other than torpedoes and torpedo launching gear comprising the normal armament of naval vessels permitted by the present Treaty), sea mines or torpedoes of non–contact types actuated by influence mechanisms, torpedoes capable of being manned, submarines or other submersible craft, motor torpedo boats, or specialised types of assault craft."

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[19] The whole text of the Peace Treaty of 1947 is provided in the Annex.

Furthermore, Article 18 of the Treaty prohibited the manufacture, storage and acquisition of any war material in excess of the required by the maintenance of the armed forces, permitted under Article 13. Article 19, on the other hand, demanded that Finland should hand over all the excess material to the Allied Powers or dispose of it within one year.

Finally, there were specific stipulations concerning Germany, and to some extent Japan. Article 19 stipulated that "Finland shall not acquire or manufacture any war material of German origin or design, or employ or train any technicians, including military and civil aviation personnel, who are or have been nationals of Germany." In addition, Article 21 demanded that"Finland shall not acquire or manufacture civil aircraft which are of German or Japanese design or which embody major assemblies of German or Japanese manufacture or design."

It is interesting to note that not a word is mentioned in the Peace Treaty on the question of Finnish coastal artillery. That subject had been a matter of dispute between the Finns and the Allied Control Commission in late 1944. The head of the naval section of the Control Commission, a Russian admiral, had demanded that unmanned Finnish coastal defence positions should be dismantled and the guns moved to storage depots on the mainland.

The Finns balked, arguing that it would result in the weakening of coastal defences to a level considered by the Finns as unacceptable. The Russians insisted upon the matter, and President Mannerheim took it upon himself to write a letter to Zhdanov observing that "as the war between the Great Powers had not yet finished and German naval forces are still operating in the northern parts of the Baltic, the preservation of the effectiveness of coastal defences in the Gulf of Finland is a defence interest shared both by the Soviet Union and Finland."[20]

At the same time, Mannerheim hinted at future cooperation between Finland and the Soviet Union on security matters: "I venture to hope that discussions will start from the basic premise that Finland and the Soviet Union have a common interest in respect of the defence of the northern Baltic and particularly the waters of the western Gulf of Finland, in which Finland wishes and is able, as an independent nation, sincerely and effectively to participate." Thus, in order to save as much as possible of Finland's independent defence capability, Mannerheim was ready in early 1945 to contemplate cooperation, on a limited and defensive basis, with the Soviet Union – something that later materialised in the 1948 Treaty of Friendship, Cooperation and Mutual Assistance. After delaying his answer for some weeks, Zhdanov finally seemed to accept the Finnish rationale and the Control Commission allowed Finland to retain its strong coastal defence almost intact.

It was clear from the very beginning that the Peace Treaty was not meant to be in force permanently. This had been a matter of lively discussion in the Allied Foreign Ministers' Conferences drafting the Peace Treaty. For example, the British argued that long–term restrictions should be separated from the short–term ones. In a Foreign Office memorandum, it was suggested that long–range artillery and missiles could be subjected

[20] Quoted in Polvinen, *op.cit.*, p. 116.

to long–term restrictions, whereas the manpower limitations could be considered for the short–term only.[21]

Although the final Peace Treaty is more general on that point, it is obvious that the lifting of the restrictions was seen as a distinct possibility in a relatively near future. In fact, Article 22 included a special mention of the possibility of changes: "Each of the military, naval and air clauses of the present Treaty shall remain in force until modified in whole or in part by agreement between the Allied or Associated Powers and Finland or, after Finland becomes a member of the United Nations, by agreement between the Security Council and Finland."

While the terms of the Paris Peace Treaty were considered extremely harsh by the Finnish political and military leadership, as well as the population at large, it was welcomed in Finland with a collective sigh of relief. No matter how harsh the conditions, it replaced the Allied (Soviet) Control Commission, closing a period of uncertainty, during which Finland's international position remained in suspense and its internal freedom of action was curtailed by the presence of the Commission. After 10 February 1947, Finland was again a sovereign country.

Interpretations of the Military Clauses

President Paasikivi's acerbic comment on the poor quality of the Peace Treaty's drafting – that any Finnish law student who produced such a text would be failed – turned out to be an accurate one. From very early on, the text was subject to disagreements and competing interpretations. In fact, the first case of interpreting the treaty clauses occurred as soon as the Treaty was signed. It concerned the restrictions on the armed forces' personnel strength as well as the amount of surplus war material.

The Treaty limited Finland's armed forces – army, navy and air force – to a total of 41,900 men. The two main signatories, Great Britain and the Soviet Union, could not, however, agree on what exactly the restriction meant. The Soviet Union took a permissive line, but the British position was a strict one: the restrictions meant to denote the over–all number of the militarily trained people in Finland. According to this view, no reserve forces could be trained beyond that number. In that case no reserves could have been prepared for mobilisation.

As the British and Soviet views on the matter were in conflict, the Finns proceeded cautiously.[22] The over–all number in question – 41,900 men – was interpreted to denote the number of standing forces; in other words, the number of professional soldiers – officers and non–commissioned officers – and the number of conscripts at any given time receiving military training. For many years, mobilisation exercises were carried out on paper in military schools, and it was only in the latter part of the 1950's that such exercises

[21] Visuri, *op.cit*, p. 9.

[22] A good indication of how uncertain Finland's leading politicians were on how the treaty stipulations were supposed to be interpreted is given by the many entries on the subject in President Paasikivi's diaries. See, J.K. Paasikiven päiväkirjat, *op. cit.*, pp. 210–213 and 237.

became part of routine training for the reserve forces. The British continued to hold to their strict interpretation but let the matter lie,partly because they found that the Soviets were not interested to take up the issue: "The Soviet Legation has consistently and deliberately frustrated all our efforts to discuss matters concerning Peace Treaty implementation, consequently, no progress has been possible and it has been left to the Finns to interpret the Peace Treaty in the manner which suits them best."[23]

The Finns, indeed, used this conflict of interest between the two main signatory powers to their advantage. Since neither of the two powers openly protested, Finland continued to build up the infrastructure for a mobilised army. Through the system of general conscription, Finland has been able to create a trained military reserve of more than one million men, out of which some 530,000 would be called to arms in a full mobilisation. This has been done without exceeding the limit set in the Peace Treaty, by employing a small professional cadre of officers and non–commissioned officers composed of some 10,000 regulars. In the early 1960's, with the baby–boomers of the late 1940's coming to conscript age, the figure of 41,900 for the total of forces–in–being was briefly exceeded. Finland then duly notified Great Britain and the Soviet Union, but no protest was heard from either party.[24] In sum, regardless of the stipulations of the Peace Treaty, Finland has been able to maintain a small professional cadre, while preparing and organising for a fully mobilised reserve force with no size restrictions to cover all possible contingencies.

Another case of interpreting the treaty stipulations that arose soon after the Treaty was ratified had to do with surplus war material. In this case, the treaty language in fact leaves no room for interpretation. In Article 19, paragraph 1, it is stated that "excess war material of Allied origin shall be placed at the disposal of the Allied Power concerned according to the instructions given by that Power. Excess Finnish war material shall be placed at the disposal of the Governments of the Soviet Union and the United Kingdom." Furthermore, it is noted in paragraph 2 of the same Article that "war material of German origin or design in excess of that required for the armed forces, permitted under the present Treaty shall be placed at the disposal of the Two Governments." Finally, paragraph 3 states that "excess war material mentioned in paragraphs 1 and 2 of this Article shall be handed over or destroyed within one year from the coming into force of the present Treaty."

The question of surplus war material was essential from the Finnish point of view. Large quantities of weapons and equipment were left over from the war. According to the information provided by the Finnish authorities in July 1948 to the Allied powers, there were about 580,000 rifles, 61,000 machine guns, some 3,000 artillery pieces and mortars,

[23] A report by the British Ambassador Oswald Scott in early 1950 from Helsinki to London. Quoted in Visuri, *op.cit.*, p. 12.

[24] For a further discussion, see the memoirs of Finland's Defence Forces' Commander–in–Chief of the time, General Sakari Simelius. The book is available only in Finnish. Sakari Simelius, *Puolustusvoimien puolesta*, WSOY, Juva, 1983, pp. 153–156.

200 tanks, 575 anti–aircraft guns and huge supplies of ammunition stored away in Finnish depots.[25] All in all, there was enough material to fully equip fifteen army divisions. If the surplus material were to be handed over to the Allied powers, the Finns could hardly field a defence force of sufficient size, let alone to equip the reserves that were considered essential to defend the country.

In this case, as on the question of the Treaty limits on manpower, the British and Soviet views were in conflict. The British view, already formulated in the Paris preparatory meetings in 1946, was strictly to "ensure that no war material is available for para– military forces or reserves not included in the ceiling of the regular armed forces," and, accordingly, the British asked the Finnish authorities in summer of 1948 to hand over excess material. In April, Finland had concluded the Treaty of Friendship, Co–operation and Mutual Assistance with the Soviet Union, and in the British view the Finnish armed forces might in some contingencies be fighting side by side with the Red Army.[26] Also the British needed weapons to equip their allies, notably China and Norway. The Finnish war material would have come in handy.[27] Since it was only the British who pressed the matter and the Soviets taking no interest in it, the Finnish authorities preferred to ignore the issue, particularly since the British did not vocally demand action.

In this connection, a special case concerned the number of aircraft allowed to be kept by Finland. According to Article 13 of the Treaty, Finland was authorised to have "an air force, including any naval air arm, of 60 aircraft, including reserves, with a total personnel strength of 3,000." At the end of the war, Finland had 387 war planes that by the end of the 1940's were rapidly becoming obsolete. While air forces elsewhere were turning to jet planes, the Finnish air force struggled to keep its propeller planes operational.[28]

In the British view, the sixty aircraft permitted by the Treaty should have included all aircraft, including transport and trainers, and the excess should be handed over to the Allies. The Finns unilaterally interpreted the number sixty to include only "first–line fighters," i.e. actual combat aircraft excluding such support aircraft as transport planes and trainers. Again, since the Soviet Union did not press the issue, the Finns were satisfied and let the matter lie, keeping the excess in use.

The British continued to press the aircraft issue well into the 1950's. As late as in January 1951, the British air attaché in Helsinki wrote in his report to London that the total number of aircraft in the Finnish Air Force was 123 and that "the Finns still interpret the terms of the Peace Treaty to mean that they are permitted sixty operational aircraft plus a reasonable number of trainer and communications aircraft."[29] He admitted, however, that Finnish aircraft was obsolete and pointed out that Finland wanted to buy jet aircraft. For

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[25] These official figures are quoted in Visuri, *op. cit.*, p. 12. The ammunition supplies were so vast that Finland's artillery and mortar troops are still using these supplies for some of their live ammunition exercises.

[26] Finland's view of the FCMA Treaty had always stressed the independent defence capabilities of the country. See, for example, Ries, *op. cit.*, Chapter 8, pp. 222–256.

[27] Visuri, *op. cit.*, p. 11.

[28] This figure is quoted in Risto E.J. Penttilä, *Finland's Search for Security Through Defence, 1944–89*, Macmillan, London, 1991, p. 24.

[29] Quoted in Visuri, *op.cit.*, p. 21.

various reasons, the British chose not to lodge an official complaint over the aircraft issue. For one thing, the Soviet Union continued to be uninterested,[30] and for another, in the early 1950's, rearmament was taking place in other former "satellites" of Germany, and there was no point in making a scapegoat out of Finland. Also,given that the first jet aircraft acquired by the Finns, the Vampire jet trainers in 1953 and the Folland Gnat F–1 in 1958, were purchased from Great Britain, probably made it easier for the British to turn a blind eye to the issue of aircraft numbers.

The same pattern, that of purchasing defence material from the main treaty signatories in cases where the issue of treaty interpretation arose, was successfully repeated by the Finnish authorities throughout the post–war period. One such case was the issue of missiles in the early 1960's. Article 17 of the Peace Treaty clearly states that "Finland shall not possess, construct or experiment with... any self–propelled or guided missiles or apparatus connected with their discharge." The Finnish government argued, however, that with the development of weapons technology, anti–tank, surface–to–air, and air–to–air missiles had become part and parcel of defensive weaponry of a nation. What was meant by the term "missiles" in the Treaty were something like the German V–1 and V–2 type long–range attack missiles, not defensive short–range missiles that were becoming increasingly commonplace in modern armies in the early 1960's.

According to a Finnish official who was intimately involved in the issue, the Finnish argument was as follows: "The only purpose of the treaty restrictions was to prevent Finland from maintaining and mobilising offensive military forces. The same principle was prominently present when the limitations of weapons systems were established. At the time the treaty restrictions were written, missiles could only be offensive; there were not any defensive anti–aircraft missiles at the time. We can maintain with full reason that the formal exceptions to the treaty restrictions that we have been discussing, are no way in contradiction with the letter and spirit of the treaty. The question is, therefore, not about nullifying the treaty restrictions but about applying them in changed circumstances."[31]

The Finnish military had taken up the issue of purchasing air defence missiles in August 1961, when tension over Berlin was mounting, arguing that without such weapons it was not possible to maintain the credibility of Finland's territorial integrity. What the military especially wanted was surface–to–air missiles capable of protecting Helsinki and perhaps some other major population centres. However, the political leadership was not yet ready to accept the argument, and the whole issue was soon overshadowed by two crises, the Berlin crisis and the so–called "Note Crisis", the most serious crisis in Finnish–Soviet relations in the post–war era.[32]

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[30] To an outright question by Finland's Commander–in–Chief on November 1952, the Soviet Military attaché in Helsinki replied that as far as the Soviet Union is concerned, Finland is free to use the excess material in depots any way they wish. See, J.K. Paasikiven, päiväkirjat, Osa II, WSOY, Juva, 1986, p. 316.

[31] A memorandum from Max Jakobson, who was then Director General of the Department of Political Affairs, Ministry for Foreign Affairs, to President Urho Kekkonen. Quoted in Max Jakobson, Veteen piirretty viiva. Havaintoja ja merkintöjä vuosilta 1953–1965, Otava, Helsinki, 1981, p. 219.

[32] On 30 October 1961 the Soviet Union sent Finland a note suggesting military consultations between them on the basis of the 1948 Treaty of Friendship, Co–operation and Mutual Assistance. For one analysis of the Note Crisis, see Penttilä, *op.cit.*, pp. 93–110.

After the Note Crisis was defused, it became clear that the Soviet Union was prepared to sell Finland air–to–air missiles to be fitted with the MiG–21 fighters, purchased with the newly established trade credits. The procurement of the MiG's was delayed, since the Finnish leadership wanted to know British views on the matter. The British were suspicious, perhaps not so much because they objected to the Finnish procurement of missiles but because they saw reinterpreting the Treaty as a dangerous precedent: if one accepted the reinterpretation of "missiles" as "defensive missiles" as the Finns were suggesting, what else in the Treaty was open for reinterpretation?[33]

Finally, after several months of rumination, the British government, in October 1962, expressed its agreement, but on the condition that Finland promise to purchase approximately the same number of missiles from the British as it was going to buy from the Soviet Union.[34] This did not please the Soviets, who let the Finns understand that it was expected to buy all surface–to–air missiles from the Soviet Union.[35] The Finnish government was now faced with a dilemma: it had guaranteed an agreement in principle from the two main signatories on its interpretation of "defensive missiles" but neither of the parties was willing to let Finland buy the surface–to–air missiles from one or the other. The Finnish solution was not to purchase those particular missiles from either one. Instead, during the following year, MiG–21's were bought from the Soviet Union equipped with air–to–air missiles and Vigilant anti–tank missiles were purchased from Great Britain.[36] Although Finnish cities were left unprotected by missile air–defence for yet another 15 years, the main battle was won: both Great Britain and the Soviet Union had accepted the Finnish argument on the need for "defensive" missiles, and thus an opportunity was opened up to improve Finnish defence capability by interpreting, not changing, the restrictions of the Paris Peace Treaty.

Another case of interpretation came up two decades later. Article 17 of the Peace Treaty specifically stipulates that "Finland shall not possess, construct or experiment with ... sea mines or torpedoes of non–contact types actuated by influence mechanisms...". Once again, the same procedure that was used in the early 1960's was used by Finland in 1982–83 on the question of influence mines. Great Britain and the Soviet Union were again approached with a request to buy influence mines, arguing that in today's conditions of mine warfare,they were indispensable for defence. This time both the British and the Soviets quickly accepted the argument, and in 1983, Finland purchased from them both.

It should be finally emphasised that in none of above mentioned cases, the original text of the 1947 Paris Peace Treaty has been changed or amended. Not a word in the Treaty was added, dropped or changed, and the quantity and quality of restrictions remained in their original form. What was altered was the mutual understanding of the language, in light of the changed military and political circumstances, and that allowed for a more permissive interpretation.

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[33] Jakobson, *op.cit.*, pp. 295–96.

[34] Penttilä, *op.cit.*, p. 106.

[35] Jakobson, *op. cit.*, p. 298.

[36] *Ibid*, p. 300.

The Question of Full Sovereignty

During a meeting of the Allied powers foreign ministers in London in September 1945, the Soviet Minister for Foreign Affairs Molotov said: "It could not be supposed that Finland could threaten the peace of Europe. The Soviet Union, which was the country most directly concerned with the possibility of Finnish aggression, had not asked for any restrictions on her military establishments in the Treaty made in 1940, and did not think them necessary now. Finland would never undertake a war of aggression without some powerful ally such as Germany; the correct policy was, therefore, to prevent Germany from becoming capable of further aggression, rather than to make demands upon Finland, which were not justified by necessity and would affront her national pride."[37]

By Spring 1990, fourty-five years after Molotov had spoken these words, the political situation in Europe had been completely altered. What had radically changed the political and military face of the European continent were the revolutions of 1989: communist governments in Eastern Europe were collapsing, the Soviet Union was pulling out its troops from the Warsaw Pact countries, and it would be just a matter of a relatively short time before the two Germanies would be united into a fully sovereign Germany.

In the Winter of 1990, "Operation Pax" was launched by a small hand–picked group of Finnish foreign affairs and defence officials. The operation was to produce a study of the on–going European changes and, in particular, their impact on Finnish security policy. In the course of the study, it soon became obvious that the expected changes in the international status of Germany, in particular, would have important repercussions on the Finnish Peace Treaty. Finnish sovereignty would be severely curtailed, if it continued to have restrictions in its relations vis–á–vis a fully sovereign Germany, as the Peace Treaty stipulations demanded. Therefore, changes in the Peace Treaty became a necessity. This was especially true as the German states and the victorious powers of the Second World War were carrying out the "2+4 talks", which were to result in freeing Germany from all limitations of its sovereignty. It would be an anomaly, indeed, if in the completely changed circumstances, the stipulations of the Paris Peace Treaty continued to limit Finland's sovereignty – especially as Finland was in 1990, as it had been in 1945, a country that "could not threaten the peace of Europe."

The first operational memoranda of "Operation Pax" were written in April 1990, and distributed within what continued to be an extremely confined group of government officials. From early on, there was general agreement over the need for action, but what form the action would take was still an open question. One option was briefly considered. Article 22 of the Peace Treaty specifically allows for changes: "Each of the military, naval and air clauses of the present Treaty shall remain in force until modified in whole or in part by agreement between the Allied and Associated Powers and Finland or, after Finland becomes a member of the United Nations, by agreement between the Security Council and Finland."

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[37] Minutes of the Council of Foreign Ministers on 20 September 1945, quoted in Pekka Visuri, *Evolution of the Finnish Military Doctrine 1945–1985*, War College, Helsinki, 1990, p. 20.

That option was, however, quickly discarded. It was considered just cumbersome to initiate negotiations with all the Allied and Associated Powers. On the other hand, Finland had joined the United Nations in 1955, but the Cold War had not allowed the Treaty to be changed through that venue. At the end, a political decision was made to act unilaterally. The main signatories to the Peace Treaty, Great Britain and the Soviet Union, were to be informed – not negotiated with or consulted.[38]

On 21 September 1990, the Finnish government unilaterally stated that the restrictions of Part III of the Peace Treaty have become null and void: "After Germany has been united and its sovereignty reinstated, the Government of Finland considers the stipulations concerning Germany in Part III of the Paris Peace Treaty to have lost their meaning."[39] It was especially important for the Finnish government to do this since in Article 10 of the Peace Treaty, Finland undertook to recognise "the full force of the Treaties of Peace with Italy, Romania, Bulgaria and Hungary and other agreements or arrangements which have been or will be reached by the Allied and Associated Powers in respect of Austria, Germany and Japan for the restoration of peace." It was noted, furthermore, that "the other stipulations in Part III of the Peace Treaty limiting Finland's sovereignty do not correspond to Finland's status as a Member State of the United Nations and Participating State in the Conference on Security and Cooperation in Europe. Therefore the Government states that also they have lost their meaning."

It should be noted that Part III of the Peace Treaty was declared null and void with one notable exception. The stipulations of Part III of the Treaty also include a ban to acquire nuclear weapons – "Finland shall not possess, construct or experiment with any atomic weapon" (Article 17) – but the Finnish Government stated that the ban retains its full significance. In addition, Finland renewed this commitment by becoming party to the Non–Proliferation Treaty in 1969.

Although the Finnish Government stated on 21 September 1990 that Part III of the Paris Peace Treaty had lost its meaning, it went on to emphasise that the Peace Treaty as a whole was not being rejected. Some stipulations of the treaty have already been fully conformed with. The most important of them are the cession of territories and the payment of war reparations to the Soviet Union, as well as the political and economic stipulations. Furthermore, the Government specifically stressed that although the stipulations limiting Finland's sovereignty are outdated, the unilateral action taken by the Government will not alter the basic tenets of Finland's security and defence policy.

Conclusions

In the immediate post–war years, it was left to Finland to re–establish its relations with the Soviet Union. The western powers were neither interested nor able to offer much more than sympathetic attention. In many cases, Finland was written off as a politically

[38] Finland's Ambassadors to Great Britain and the Soviet Union informed the foreign ministries of these countries of Finland's decision on 17 September 1990.

[39] *Decision of the Government of Finland on Stipulations of the Paris Peace Treaty Concerning Germany and Limiting the Sovereignty of Finland*, UM Press, Press Release No. 277, 21 September 1990. All quotations here referring to Finland's Government's decision are taken from that document.

independent nation. In the words of Anthony Eden in August 1944: "Although we shall no doubt hope that Finland will be left some real degree of at least cultural and commercial independence and a parliamentary regime, Russian influence will in any event be predominant in Finland and we shall not be able, nor would it serve any important British interests to contest that influence." [40]

It is against this background that the British demands in regard to the limitations imposed in the Paris Peace Treaty of 1947 upon the Finnish defence forces must be understood. Also, the American goodwill, created by the heroic images of the Winter War, had been badly eroded by the years of the Continuation War. The Finnish case in the peace negotiations was to be the concern of Great Britain and the Soviet Union.

Throughout the years, Finland faithfully observed the stipulations of the Peace Treaty. All the other states which signed a similar peace treaty in 1947, soon joined military alliances and, as a result, did not observe the limitations imposed on them by their peace treaties, although these stipulations were never officially repealed. The crucial point, in the Finnish case, was that the stipulations limiting the quantity and quality of the Finnish defence forces were interpreted rather liberally. As a result, this greatly reduced the Finnish need to seek to modify or repeal the Peace Treaty limitations.

An interesting question, however, is to what extent did the Peace Treaty stipulations seriously hamper the development of the Finnish defence capabilities? First, it should be noted that there is no easy way to give an answer to this important question. An official answer was provided by Admiral Jan Klenberg, the Commander–in–Chief of the Finnish Defence Forces, in a statement dated 21 September 1990:

"From the point of view of the Defence Forces it is extremely positive and significant that the military clauses of the Paris Peace Treaty, excluding the stipulation on atomic weapons included in Article 17, have been declared null and void on the decision taken today by the Government of Finland. As to the practical effects of the clauses contained in Part III of the Peace Treaty, it should be note that these clauses have not significantly hampered the functioning of the Defence Forces. The most significant problems have been avoided by the main signatories agreeing on new understanding or interpretation. Such clauses have above all been the ones limiting the acquisition of missiles and non–contact mines in Article 17 of the treaty" [41]

As stated by Admiral Klenberg, it was of utmost importance to Finland to obtain lenient interpretations of the treaty limitations; the issue of missiles is an obvious case in point. Without modern anti–tank or air–to–air missiles Finnish defence efforts would not have been credible. At the same time, it should be emphasised that the development of national defence in the post–war period in Finland always was more a question of national economy than that of restrictions imposed by the Paris Peace Treaty. Financial constraints, rather than treaty stipulations dictated what the Defence Forces could acquire to maintain the credibility of Finnish defence.

[40] Eden's memorandum, "Soviet Policy in Europe outside the Balkans", 9 August 1944, WP (44) 436, CAB 66153. Quoted in Polvinen, *op. cit.*, p. 283.

[41] Puolustusvoimain komentaja, amiraali Jan Klenbergin lausunto Pariisin rauhansopimuksen Saksaa koskevien ja Suomen täysivaltaisuutta rajoittavien määräysten kumoamisesta, *Pääesikunta tiedottaa*, no. 157, 21.9.1990.

The Finnish action of 21 September 1990 was not, however, without its practical military consequences. It is vital that Finland is able to purchase its weapons from whoever it choose so. This is especially important for a country that must try to stretch its small defence budget to cover many needs. By having an opportunity to consider defence material of German origin, Finland will be able to open up its future defence material purchases for a larger number of bidders, thus benefiting from increased competition. Also, if need arises, it can purchase more than sixty fighter aircraft, or even acquire submarines if only for training purposes, without having to think about violating an international agreement.

Finally, it will again be able to provide military training for personnel not included in the Defence Forces. This means that there will no longer be any legal obstacles to establishing, for example, a home guard organisation, or to providing, as part of the Defence Forces, professional and material assistance to various existing reservist organisations. This might perhaps prove to be the most important practical consequence of repealing Part III.

The 1947 Paris Peace Treaty was an attempt to prevent Germany and its former allies and co-belligerents from rearming. With the advent of the Cold War, the Finnish Treaty became part of the mosaic of the division of Europe. The fundamental change in the security structure of Europe made it possible to recognise that the treaty stipulations were outdated.[42] The Finnish action of 21 September 1990 should, therefore, be seen not so much as an attempt to get rid of the restrictions limiting the development of the Finnish military capabilities but as an act, after passing of almost half a century, of returning Finland's full sovereignty.

[42] It was not only the Paris Peace Treaty that was becoming outdated. On the same date, 21 September 1990, that Finland made its unilateral statement on the Peace Treaty, Dr. Mauno Koivisto, the President of the Republic, recorded in the protocol of the Council of State a statement that read in part: "The reference to Germany as a possible aggressor contained in the 1948 Treaty of Friendship, Cooperation and Mutual Assistance (FCMA) between Finland and the Soviet Union reflects a historical appraisal of the situation prevailing at the time of its signing. Such a situation no longer exists. Recent developments, in particular the relaxation of confrontation in Europe, the unification of Germany and the international agreements relating to it signify that the said reference in the FCMA Treaty has become obsolete." With the collapse of the Soviet Union, the situation changes even further. On 20 January1992, Finland signed three agreements with the Russian Federation: an agreement on the foundation of relations, a treaty on trade and economic cooperation and an agreement on cooperation in Murmansk, the Republic of Karelia, St. Petersburg and the Leningrad area. Through a separate exchange of notes which took place on the same day, the 1948 Treaty of Friendship, Cooperation and Mutual Assistance was explicitly discontinued.

Chapter 5
Armaments Control of Germany: Protocol III of the Modified Brussels Treaty

*Dankward Gerhold**

On October 23, 1954 seven countries - Belgium, France, the Federal Republic of Germany, Italy, Luxembourg, the Netherlands and the United Kingdom - founded the Western European Union (WEU) by signing the "Treaty of Economic, Social and Cultural Collaboration and Collective Self-Defence,...as amended by the 'Protocol Modifying and Completing the Brussels Treaty'" (hereinafter referred to as the Modified Brussels Treaty). The "Protocol Modifying...the Brussels Treaty" (Protocol No. I) was signed the same day as the other related Protocols No II. - IV, and after ratification by the contracting parties, all of them entered into force on May 6, 1955.

As stated in its preamble, the Modified Brussels Treaty aimed at fortifying and preserving the principles of democracy and human rights, strengthening the economic, social and cultural ties, creating a firm base for European economic recovery, promoting the unity and integration of Europe, associating progressively other states and affording assistance in resisting any policy of aggression.

In contrast to the preamble, where security and defence aspects represent but one of seven stated aims, the Treaty itself emphasises military and security matters (Articles IV - X). The most peculiar treaty objective was, however, *arms control.* Never before had an alliance treaty included armament control regulations among partners.

The Modified Brussels Treaty resulted in a network of no less than 21 agreements, resolutions, decisions, regulations and messages which are all related to the conclusion of a political process that had already begun in the late 1940's and eventually led to the accession of Italy to the WEU and the Federal Republic of Germany to both the WEU and NATO.

This chapter examines the armaments control regime of the WEU, where the Protocol III plays a key role. However, to understand the whole control regime, it is necessary to also look at Protocols II and IV as well as at NATO's force planning responsibility and procedures. After briefly sketching the historical and politico-military background that eventually led to the Treaty, we will analyse from a German perspective, the production prohibitions and restrictions, as well as procurement restrictions. In conclusion we will point out the termination of armaments control under the Modified Brussels Treaty, and examine whether the control regime was a valid attempt.

Historical Background

Treaty of Dunkerque

Germany, or what was left of it, was divided into four economic zones and occupied by forces of the Four Victorious Powers. As a result, it was unable to take any decisions on its own. And yet, less than two years after the end of World War II, France and the

* This chapter reflects the personal views of the author only and does not represent any governmental interpretations.

United Kingdom signed a treaty aimed mainly at securing their countries against a renewal of Germany's aggressive policy.[1] It is remarkable that this was done a month after the signing of peace treaties with Finland, Italy, Hungary and Bulgaria (Feb.10, 1947), and in expectation of the Conference of Foreign Ministers in Moscow (March 3-April 24, 1947) where problems related with Germany were to be further discussed.

Although the Moscow Conference and its autumn follow-up in London (November 25-December 15, 1947) did not lead to an agreement on the most pressing questions of German reparations, boundaries, and political and economic unity, in 1947 there was not yet a real East-West confrontation. This despite Zhdanov's statement during the foundation conference of the COMINFORM in Warsaw (September 30, 1947), that emphasised the division of the world into an imperialistic camp around the USA and an anti-imperialistic one around the USSR.

In the years before, some (mainly) southeast European countries started to tie themselves closer to the Soviet Union. Some others in the same region suffered from internal unrest and struggled for the survival of democracy or monarchy. The Greek government formally called for U.S. assistance (March 3, 1947).

As a consequence of the Truman Doctrine (March 12, 1947), which assured U.S. assistance to all peoples whose freedom was threatened, the Marshall Plan was established (June 5, 1947) and initially accepted by fourteen European countries. Later Poland, Czechoslovakia and Finland retreated. The latter were the next to be tied closer to the Soviet Union, but Finland managed to preserve its freedom.

The Brussels Treaty - The Western Union

In 1948, the USSR concluded treaties of friendship and mutual assistance with Rumania (Feb. 4), Hungary (Feb. 18), Bulgaria (March 18) and Finland (April 6). The Eastern Block, to whom Poland and Czechoslovakia also belonged, started to take shape.

In the West, Belgium, the Netherlands and Luxembourg joined France and the United Kingdom and created the Western Union by enlarging and transforming the Treaty of Dunkerque into an arrangement of economic, social and cultural collaboration and collective self-defence. This was done in Brussels on March 17, 1948 and has since been known as the Brussels Treaty.

Although its Article IV contained an obligation — under the provisions of Article 51 of the UN Charter — for military assistance in case of an attack in Europe, the preamble's sixth sub-paragraph clearly stated what was meant: "To take such steps as may be held necessary in the event of renewal by Germany of a policy of aggression."[2] The contracting parties still feared the powerless Germany that had brought so much mischief to Europe. These fears, particularly those in France, were a key factor in future developments of West European security structures and the integration process.

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[1] Treaty of Dunkerque, signed by France and the United Kingdom on March 4, 1947 for a minimum of 50 years. This was an alliance treaty that contained clauses clearly directed agsinst Germany, should it try to renew its policy of aggression. It can be seen as an attempt of revitalising the "Entente Cordiale". For treaty text see Franz-Wilhelm Engel, *Handbuch der NATO*, Frankfurt/Main, 1957, pp. 298-301.

[2] Protocol No I, Article II, 1st sub-paragraph; Treaty text in Annex.

The currency reform in the three Western zones of Germany (June 20, 1948) and Berlin (June 23) set-up by the Western Allies underscored the division of Germany. In response, the Soviets used the reform as an opportunity or pretext for an advance directed against the removal of the Allied enclave in their occupation zone. In consequence, a large-scale air relief operation commenced. Millions of tons of food supplies and coal were flown into Berlin.

For the first time since the end of WW II, military means had been used in an attempt to solve contentious issues. The former Allies became opponents. And suddenly it became clear: The UN Security Council was not a forum to settle disputes amongst the Western Allies and the Soviet Union since the latter could veto any decision.[3] A new form of a regional security structure was needed.

The Foundation of NATO and the Lisbon Meeting

The British Foreign Minister Ernest Bevin was amongst the first who realised this need, and already in the beginning of March 1948, he pointed to the necessity of strengthening the position of those countries which were to conclude the Brussels Treaty. He thought about a defence plan for the Atlantic, combined with a security system for the Mediterranean.

The proposal was met with interest, particularly by the Canadian government. So it was the Canadian Foreign Minister who, on April 29, 1948, concluded his report on the international situation with a statement on possible intensification of cooperation between those free countries, which would assure mutual assistance and protection under the provisions of Article 51 of the UN Charter.[4]

On the other hand, despite his general support for the Brussels Treaty and his willingness in principal to grant assistance by appropriate means to the five signature powers, if necessary,[5] President Truman did not say that his country was ready to enter into an alliance with those five states and to accept concrete obligations in the framework of a regional pact as Bevin had proposed.

The Vandenberg Resolution[6] eventually brought the break-through when it passed the U.S. Senate (June 11, 1948). But it was another ten months until the North Atlantic Treaty Organisation (NATO) was founded.

While the Berlin blockade was still progressing, common consultations on military questions within the Western Union led to the establishment of a permanent defence staff under Marshall B.L. Montgomery (August 27/28, 1948). At this moment, more attention was obviously drawn to Soviet expansion and related threats rather than to a German renewal of aggressive policy.

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[3] Jacques Freymond, *Die Atlantische Welt*, pp. 234, in: Golo Mann, (ed.), *Propyläen Weltgeschichte*, Berlin/Frankfurt a.M., 1986, pp. 221-299.

[4] Article 51 explicitly leaves the right for individual and collective self-defence to a nation attacked by an aggressor until the Security Council takes appropriate measures for restoring peace and international security.

[5] Message of the U.S. president to the Congress on March 17, 1948, the day the Brussels Treaty was signed; see Jacques Freymond, *op. cit.*, p. 235.

[6] For text of Resolution see Franz-Wilhelm Engel, *op. cit.*, 1957, p. 344.

On April 4, 1949, NATO was founded in Washington by the members of the Western Union and the USA, Canada, Denmark, Iceland, Italy, Norway and Portugal. Greece and Turkey joined on February 25, 1952. The Treaty, that was initially concluded for a period of 20 years, contained under the provisions of Article 51 of the UN Charter obligations for mutual, but not necessarily military assistance in case of an armed attack.

An attack on one of the members' territories as well as ships and aircraft within a specified area was (and still is) considered an attack on all. However, certain arrangements had been made to exclude European overseas territories.

After ratification, the NATO Treaty became effective on August 24, 1949, and the creation of a common High Command was decided during the first session of the North Atlantic Council (September 17). During the follow-up conference of the three Western Foreign Ministers in Paris (November 9/10), the extension of the rights of Germany and her integration into Western Europe were recommended. Although supporting the recommendations, France, still afraid of possible hidden German revanchism, argued for the continued disarmament of West Germany and permanent control of her industry.

The outbreak of the Korean War accelerated developments in the West. The three Western Foreign Ministers met in New York (September 12-23, 1950) and discussed the question of how to defend the free world in Europe and Asia. In this context, they recommended the establishment of an integrated European army and exchanged their views on the possible re-armament of West Germany.

During its December meeting (December 18/19, 1950), the North Atlantic Council followed those recommendations and decided to build up an European army. German participation was envisaged.

In the meantime, the *Council of Europe*, which had been created eighteen months earlier (May 5, 1949) by Belgium, Denmark, France, Ireland, Italy, Luxembourg, the Netherlands, Norway, the United Kingdom and Sweden, also discussed the establishment of an European army with German participation (November 19-25, 1950). Furthermore, they decided on working out a constitution for the United States of Europe. It is interesting to note that Sweden, although neutral, participated in this process.

The next important meeting of the three Western Foreign Ministers took place in Washington (Sep. 10-14, 1951). It was again stressed that Germany should contribute to the European forces, holding out a prospect of revising the occupation statute in West Germany as an incentive.

After debating the Schuman plan for more than a year, the six European states (Belgium, France, Italy, Luxembourg, the Netherlands and Germany) had founded another forum, this time for economic reasons. On April 18, 1951 the European Coal and Steel Community (ECSC) was signed. This was particularly remarkable because the contracting parties were ready to give away a — albeit small — portion of their sovereignty to a supranational parliament that was to control the ECSC. The background for this was, *inter-alia*, the control of German steel production which had contributed to the well known German arms manufacturing in the past.

The same year, the six ECSC states also discussed the Pleven plan (February 15 and November 22, 1951). Pleven, who was at that time the French Prime Minister, had

proposed a European Defence Community (EDC) with German participation. Despite this French proposal, German negotiations with NATO about their contribution (January 23) ran aground due to French disagreement. This apparent contradiction is quite easy to explain: Direct German participation in NATO would have meant the same responsibilities, but on the other hand, also the same rights as all other NATO members; in other words, Germany would have been able to autonomously decide on the quantity of her forces and the amount of troops she was ready to put under NATO command.

In contrast, the Pleven Plan aimed at an integrated European army under French command, with control on everything related to German re-armament. But nevertheless, Germany became a member of the Council of Europe (April 7, 1951) and established diplomatic relations (June 13). As a result, the United Kingdom and France terminated the status of war with her (July 9); this move was followed immediately thereafter by the United States (October 18) and, with the exception of the Eastern Block, by all other former belligerents.

On its ninth meeting between February 20 25, 1952, the North Atlantic Council discussed in Lisbon *inter alia* the members' future defence plans and the anticipated EDC. The Council recommended that the NATO countries sign a supplementary protocol to the North Atlantic Treaty. This protocol contained guaranties which according to Article 5 of the North Atlantic Treaty member states should grant to the members of the EDC. Furthermore, when discussing the defence plans for the following three years, the Council decided to provide 90 divisions from member states, of which 50 active divisions, about 4000 aircraft and "strong naval forces" should be made available to NATO in 1952. Especially the number of divisions was impossible to achieve without drawing on the manpower of Germany. Finally, the Council agreed on annual defence planning to be conducted by the Council's International Staff in order to facilitate co-ordination of national plans.

The Soviet Union, facing increased and commonly coordinated reactions by the West on her aggressive behaviour and anticipating West Germany's re-armament and firm integration into the Western camp, tried once more to prevent this from happening. She proposed to the three Western Powers to work out a peace treaty for Germany on a Four Powers Conference (March 10). The Peace Treaty was to address re-unification, establishment of German forces, accession to the United Nations, non-alignment and recognition of the borders stated in the Potsdam Agreement to be provisional. Instead, the Western reply (March 25) postulated free elections for an all German government prior to any discussions of a peace treaty, freedom of decision in foreign affairs for a unified Germany and it insisted on the provisional character of the border regulations of 1945. Meanwhile, the West stayed on track and continued what it had planned.

How To Get Germany In: The EDC - A Good Try

After a period of intense negotiations among all parties concerned, the point was eventually reached by late May when a network of agreements and treaties were ready for signing. On May 26, 1952, Germany signed eight conventions and protocols with the three Western Powers, of which the so-called General Treaty was the prerequisite that

allowed her to sign the EDC Treaty. The *Protocol on the Relations between the European Defence Community and the North Atlantic Treaty Organisation* was signed the following day.[7] The General Treaty was of particular importance because it paved the ground for German sovereignty. However, the effective date of all eight treaties was linked to the ratification of the EDC Treaty by all Signatory States.

The EDC Treaty[8] itself contained regulations for the establishment of common defence forces, including organisation and size of forces and national contributions,[9] common jurisdiction, payment and uniforms, the institutions of the Community (like the Commissariate, the Assembly, the Council and the Court) as well as financial and economic regulations. Amongst the latter, armaments control regulations were included.

In contrast to all other EDC member states France, Belgium, the Netherlands, Luxembourg and Italy -, Germany was not a member of NATO. But she was firmly tied to the North Atlantic Treaty Organisation through three Protocols[10] which clarified the relations between both organisations, and formally expanded NATO's area of responsibility to include her. On the other hand, all EDC members were to render assistance to NATO in accordance with Article 5 of the Washington Treaty should a NATO partner be attacked.

Finally, the whole network of treaties and protocols contained a Treaty between the United Kingdom and the Member States of the European Defence Community[11] that

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[7] These eight conventions and protocols were:
- Convention on the Relations between the Three Powers and the Federal Republic of Germany and Related Conventions (General Treaty);
- Convention on the Rights and Obligations of Foreign Forces and their Members in the Federal Republic of Germany;
- Finance Convention;
- Convention on the Settlement of Matters arising out of the War and the Occupation;
- Exchange of 29 letters concerning details of the eight treaties between the Chancellor of Germany and the three Allied High Commissioners, the three Western Foreign Ministers, the chairman of the Allied High Commission and vice versa including the Three Powers Declaration on the Occasion of the Conference of the three Foreign Ministers at Bonn on May 25, 1952;
- Protocol to correct textual Errors in the Convention on Relations between the Three Powers and the Federal Republic of Germany and the related Conventions;
- Agreement on the Tax Treatment of the Forces and their Members;
- Protocol conferring upon the Arbitration Tribunal jurisdiction over disputes arising under the Agreement on the Tax Treatment of Forces and Their Members. For the text of the conventions, see *Bundesgesetzblatt*, Teil II, Nr. 3, Bonn, 29. März 1954.

[8] *Bundesgesetzblatt*, Teil II, Nr. 3, Bonn, 29. März 1954, pp. 343-423.

[9] "Accord entre les Gouvernements des Etats membres de la Communauté" (This also is called "Accord spécial" and was annexed as a secret enclosure to the "Traité instituant la Communauté Européenne de Défense").

[10] "Protocole relatif aux Relations entre la Communauté Européenne de Défense et l'Organisation du Traité de l'Atlantique Nord", in: *Bundesgesetzblatt*, Teil II, Nr. 3, Bonn, 29. März 1954, pp. 408.

"Protocole relatif aux engagements d'assistance des états Membres de la Communauté Européenne de Défense envers les états Parties au Traité de l'Atlantique Nord", in: *Bundesgesetzblatt*, Teil II, Nr. 3, Bonn, 29. März 1954, pp. 409.

"Protocol to the North Atlantic Treaty on Guarantees given by the Parties to the North Atlantic Treaty to the Members of the European Defence Community", in: *Bundesgesetzblatt*, Teil II, Nr. 3, Bonn, 29. März 1954, pp. 413-415.

[11] *Bundesgesetzblatt*, Teil II, Nr. 3, Nr. 3, Bonn, 29. März 1954, pp. 421.

exceeded the assistance obligation of the Washington Treaty. It explicitly included military assistance should the EDC or its forces be the object of an attack in Europe. All Agreements and Treaties contained the same phrase as the NATO Treaty relating to Article 51 of the UN Charter.

It must be stressed that the whole Treaty network and related protocols and agreements fulfilled most of the prerequisites of all participating states: NATO could get the urgently needed West German troops and manpower through the EDC, Germany was firmly embedded in the Western Camp and was close to reaching full sovereignty. France had achieved a major success, because it had prevented Germany from becoming a full NATO partner with equal rights.

Instead, Germany would have been part of the French dominated EDC. Council decisions relating to military issues needed a two thirds majority, and under the prevailing conditions, it would have been unlikely that Germany could have pushed topics that did not fit into French thinking. However, there was one bitter pill for France to swallow in order to make the EDC acceptable to all: The supranationality of the European Defence Community.[12] Indeed, France was going to loose national control over the majority of its forces. What made it, nevertheless, seemingly acceptable to France were the armaments control arrangements of Article 107. The stipulations read:

> "The production, import and export of war materials from or to third countries, measures directly concerning establishments intended for the production of war materials, and the manufacture of prototypes and technical research concerning war materials shall be forbidden, except as permitted in accordance with paragraph 3 below."[13]

Paragraph 3 then contained the procedures for the Commissariate for issuing the required permission. The following paragraph 4.(d) contained the area for which permission might be given. This area was specified in an "Agreement envisaged in Article 107 (Paragraph 4(b))"[14] prescribing an area west of a line that follows roughly from north to south, the German-Dutch border to the river Rhine, along the river to Mainz excluding the villages of Trois dorf and Darmstadt, further south to Heidelberg, then following the river Neckar to Esslingen, running through Ulm and finally reaching the east end of Lake Constance; thus excluding most parts of Germany and — most important — the Ruhr area where most of Hitler's heavy armaments industry had been situated.

Attached to Article 107 were two annexes specifying armaments requiring prior permission. Annex 1 listed the armaments themselves, whereas Annex 2 contained definitions of those armaments.[15] In fact there was almost nothing left for production without permission.

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[12] For the French perspective, see Henri Froment Meurice, *Frankreich und die deutsche Frage*, Deutsche Gesellschaft für Auswärtige Politik e.V., Bonn, 1989, pp. 8-12.

[13] Her Majesty's Stationary Office, 1952. *The European Defence Community Treaty*, Miscellaneous no. 11, London, p. 3.

[14] *Ibid.*, p. 55.

[15] *Ibid.* pp. 35-37.

On March 26, 1954 the German Parliament adopted the Basic Law in order to ratify the EDC Treaty on legal grounds two days later. The French National Assembly, however, took the ratification decision scheduled for August 31, 1954 off the agenda and adjourned for an unspecified period, after having requested changes to the EDC Treaty that had not been approved by all other member states during a conference in Brussels (Aug.19-22, 1954). Robert Schuman's idea for a united Europe for which the EDC was the cornerstone had failed due to the unwillingness of his own nation.

The Final Result: The Modified Brussels Treaty - The Western European Union

Suddenly all parties concerned woke up. All EDC member states but France had already ratified the Treaty. NATO saw the envisaged and urgently needed German military contribution disappear because the whole network of treaties and agreements signed on May 26 and 27, 1952 was dependent on ratification of the EDC Treaty by all Signature States.

In this political vacuum the United Kingdom took the initiative and proposed
- the accession of Italy and Germany to the Brussels Treaty;
- the taking effect of the "General Treaty"; and
- the accession of Germany to the Washington Treaty as a sovereign state.[16]

As a consequence of these proposals, the Foreign Ministers of all EDC member states, as well as the United States, Canada and Great Britain convened in London (September 28-October 3, 1954). The outcome of the Conference was very uncertain from the beginning. But in the afternoon of the second day, John Foster Dulles made it very clear what would happen if the Europeans continued to disagree. Without mentioning a nation and by applying the rules of international conferences, he nicely demonstrated how to persuade in an extremely diplomatic way.[17] Maybe this was the reason why no French statement was included in the Final Act.

During the remaining days of this Nine-Power Conference, all outstanding problems were to be solved on the basis of the British proposals. The "London Final Act" declared the government of Germany the only free and legitimately elected German government, renewed guarantees for Berlin and contained by and large all the clauses of the later modified Brussels Treaty, although in the form of statements and declarations by representatives of various governments. There was, as well, a German renunciation of settling disputes by threat or use of force and manufacturing atomic, biological and chemical weapons. The Final Act also stated that force contributions by former EDC states should be in accordance with the "Accord spécial" taken from the EDC Treaty, and that armaments control obligations be applied similarly to those of Article 107 of the EDC Treaty.[18]

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[16] See Gerhard Hubatschek, "Weichenstellung für Bewaffnung und Westintegration der Bundesrepublik", *Wehrwissenschaftliche Rundschau*, D-29, 1980, 2, März/April, p. 50.

[17] "The Final Act of the Nine-Power Conference, held in London between September 28 and October 3, 1954", pp. 239-249, in: *Brussels Treaty*, Office of trhe Clerk of the Assembly of Western European Union, Paris, 1982, pp. 195-265.

[18] Brussels Treaty, *op. cit.*, pp. 195-265.

The remaining work, redrafting the Brussels Treaty of March 17, 1948 was done in Paris during the following three weeks. Eventually the Modified Brussels Treaty was signed by all former EDC member states and the United Kingdom on October 23, 1954. It entered into force on May 6 of the following year. In parallel, the North Atlantic Council noted on October 22, 1954 the "declaration made in London by the Government of the Federal Republic of Germany on October 3, 1954, and the related declarations made on the same occasion by the Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland, and the French Republic."[19] Germany was formally invited to accede the Washington Treaty on October 23, 1954.[20] The eight conventions and protocols signed on May 26, 1952 and mentioned in the section on the EDC above, were adapted to the new situation and signed by the Foreign Ministers of the Three Victorious Powers and Germany on the same day,[21] as well as, the amplifying Convention on the Presence of Foreign Forces in the Federal Republic of Germany.[22]

The way was paved for the WEU and NATO to receive German troops. With the exception of Berlin, matters affecting Germany as a whole and air policing over German soil (which remained the responsibilities of the Four Victorious Powers), Germany became sovereign. But the unity of Western Europe — that seemed to be so close — had not been reached. The French National Assembly, whose leadership had always tried so hard to prevent Germany from becoming a full NATO member with equal rights, had failed to take the right decision at the right time. The WEU was nothing else than a thinned out EDC with national contributors and without any dominating power. From an Atlantic perspective, however, it was a fair compromise binding all West Europeans together.

The Soviet Union, on the other hand, in response to the foundation of the Western European Union and the envisaged German membership in NATO, created the Warsaw Pact Organisation in 1955 together with Poland, Czechoslovakia, Rumania, Bulgaria, Albania and East Germany. The division of Europe was complete.

Protocol III of the Modified Brussels Treaty

From a military, defence and arms control perspective, only some clauses of the WEU Treaty are of interest.

First of all, Article V contains an obligation to provide all the military assistance in their power should any of the contracting parties be the object of an armed attack in Europe.[23] This obligation expands the formula of Article 5 of the Washington Treaty which says that each party will take such action that it deems necessary, including the

[19] "Resolution of Association by other Parties to the North Atlantic Treaty, adopted on October 22, 1954", in: Brussels Treaty, *op. cit.*, pp. 279-285.

[20] "Protocol to the North Atlantic Treaty on the Accession of the Federal Republic of Germany, signed at Paris on October 23, 1954; entered into force on May 5, 1955," in: Brussels Treaty, *op. cit.*, pp. 287-291.

[21] *Bundesgesetzblatt*, Teil II, Nr. 7, Bonn, 25. März 1955, pp. 213-252.

[22] *Bundesgesetzblatt*, Teil II, Nr. 7, Bonn, 25. März 1955, pp. 253-255.

[23] For Treaty text see Annex.

use of armed force. And Article V excludes European overseas territories similar to Article 6 of the North Atlantic Treaty.[24]

Secondly, Article VIII (3) of the WEU Treaty provides for the possibility that "at the request of any of the High Contracting Parties the Council (of Western European Union) shall be immediately convened in order to permit Them to consult with regard to any situation which may constitute a threat to peace, in whatever area this threat should arise, or danger to economic stability." It was this clause that formed the basis for consultations during recent crises in Yugoslavia, for instance. However, possibly resulting actions are to be conducted individually by member states.

To control armaments defined in Protocol III, an Armaments Control Agency (ACA) was created (Article VIII, 2) and established in Paris. Terms of reference, responsibilities of the ACA and methods of work are contained in Protocol IV. Amplifying details concerning certain aspects of Protocol IV: inspection procedures and Agency regulations,[25] locations of depots and armaments manufacturing plants on the mainland of Europe,[26] and a Tribunal located at the seat of the Court of the European Communities in case disputes arising from inspections needed settlement,[27] were adopted or signed by the Council within three years after signature of the Modified Brussels Treaty. Yet the latter never came into force, because France failed to ratify it.

Furthermore, the WEU is closely linked to NATO through its Article IV, and here particularly through sub-paragraph (2) stating that "recognizing the undesirability of duplicating the military staffs of NATO, the Council and its Agency will rely on the appropriate military authorities of NATO for information and advice on military matters." We will come back to this link when discussing force planning and armaments control procedures.

Finally, there is no statement on how to withdraw from the Treaty. All contracting parties are bound for a minimum of fifty years. "After the expiration of the period ..., each of the Contracting Parties shall have the right to cease to be a party thereto provided that he shall have given one year's notice of denunciation to the Belgium Government" (Article XII). Thus, without any denunciation the Treaty will stay in force forever.

Although everybody knows that there is a relation between military manpower, size of formation and required equipment, Protocols II and III of the Modified Brussels Treaty tried to differentiate between formations and material to be controlled. With reference to the *Accord Spécial* that used to be a secret annex to the EDC Treaty,

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[24] See "The Washington Treaty", in: *Bundesgesetzblatt*, Teil II, Nr. 7, Bonn, 25. März 1955, pp. 289-292.

[25] "Regulations drawn up in execution of Article XI of Protocol No. IV of the Brussels Treaty as modified by the Protocols signed at Paris on October 23, 1954, adopted by Resolution of the Council of Western European Union on May 3, 1956", in: Brussels Treaty, *op. cit.*, pp. 143-149.

[26] "Resolution implementing Article XXI of Protocol No. IV of the Brussels Treaty as modified by the Protocols signed at Paris on October 23, 1954, adopted by the Council of Western European Union on September 18, 1957", in: Brussels Treaty, *op. cit.*, pp. 157-159.

[27] "Convention concerning measures to be taken by Member States of Western European Union in order to enable the Agency for the Control of Armaments to carry out its control effectively and making provisions for due process of law in accordance with Protocol No. IV of the Brussels Treaty as modified by the Protocols signed at Paris on October 23, 1954, signed at Paris on December 14, 1957", in: Brussels Treaty, *op. cit.*, pp. 161-183.

Protocol II lists the upper limits for land and air forces of continental member states and naval forces for Germany. The United Kingdom is obligated to maintain "four divisions and the Second Tactical Air Force" on the continent while no limits are set for naval forces. But the contribution of naval forces to NATO commands were to be determined each year in the course of the Annual Review. Article I of Protocol II further states that all land and air forces stationed on the continent in peace time are to be placed under the Supreme Allied Commander, Europe (SACEUR).

In contrast to naval forces where numbers of units and of active as well as reserve personnel per type is determined in great detail (at least for Germany), the *Accord Spécial* contains clear figures only for army divisions and aircraft while the amount of personnel for divisions and tactical air commands are only given as average figures.

These slight ambiguities, however, did not matter at all since the only purpose of the network of treaties, agreements etc. had been to get German manpower for the defence in Europe, be it in NATO or elsewhere. So it is not astonishing that Article III of the very same Protocol contains a clause which in fact sets aside all the just mentioned force levels. Either the WEU Council or NATO can unanimously approve increases in force levels above the limits specified in Articles I and II, if during the Annual Review such recommendations are put forward.

The resolution concerning the level of forces, adopted by the WEU Council in 1956 which the Council, considering the desirability of laying down a procedure for the application of Article III of Protocol No. II, recommended "...Member Governments to instruct their Permanent Representatives on the North Atlantic Council to meet once a year...during the...NATO Annual Review:

> (a) to examine whether the level of forces...fall within the limits specified in Articles I and II (of Protocol No.II);
>
> ...
>
> (c) to report to the Council of WEU which will take any necessary decision by unanimous vote...".[28]

But this procedure was hardly applied since it seemingly aimed at excluding the NATO Council from taking decisions in this respect. One can further argue that it was overruled by a later signed and ratified agreement[29] which, with regard to forces placed under the command of SACEUR, explicitly refers to Article III of Protocol II.

Article V of Protocol II deals with the strength and armaments of the internal defence and police forces on the mainland of Europe and has in itself little to do with the control regime. It says that details "...shall be fixed by agreements within the Organisation of..."the WEU. This was done by signing an agreement on December 14, 1957.[30] That agreement, however, specified then that it "...shall apply to all armed and

[28] "Resolution concerning the level of forces of the seven Western European Union Powers placed under NATO command; adopted by the Council of Western European Union on September 15, 1956", in: Brussels Treaty, *op. cit.*, p. 151.

[29] "Agreement drawn up in implementation of Article V of Protocol No. II of the Brussels Treaty as modified by the Protocols signed at Paris on October 23, 1954; signed at Paris on December 14, 1957; entered into force on November 13, 1961; Article 1", in: Brussels Treaty, *op. cit.*, pp. 185-191.

[30] *Ibid.*

uniformed personnel maintained on the mainland of Europe..., with the exception of the forces referred to in Articles I and II of Protocol No.II..." (Article 1), thus leaving out all military units placed under SACEUR's command and all military and police formations in the United Kingdom.

For the remaining armed and uniformed personnel for common defence like territorial forces, the WEU Council "...shall accept ... the levels which shall be communicated annually to it by the North Atlantic Council...(and)...shall automatically include these levels in...tables..." (Article 4). Since Article V of Protocol No. II explicitly mentioned police forces, the German Bundesgrenzschutz which is considered by German law to be a federal border police force is included in the definition of Article 4 of the 1957-Agreement, because the Bundesgrenzschutz has tasks within the common defence.[31]

In conclusion of Protocol II and the related resolution and agreement, we recognise that there are three categories of military and police forces which are to be controlled. These are (1) forces under NATO command, (2) forces intended for overseas defence, and (3) national forces including police forces for common defence. As shown, only those maintained on the continent fall under the provisions of Protocol II. This excludes the majority of British forces. The decision on the amount of forces for over seas defence falls first of all under national responsibility. The WEU Council shall accept the levels.

Although there is a built in clause for expressing disagreement by other member states, this seems to be unrealistic. Imagine what would have happened if, particularly in the be ginning, Germany had argued against the levels of forces for overseas defence. Hence, these force levels are factually also excluded in leaving aside certain parts of French, Belgian and Dutch forces. National forces for common defence are reported to NATO which, in turn, communicates these levels to the WEU Council which shall accept them. NATO, however, used to be extremely keen on getting as many troops as possible under SACEUR's command.

This was thus a control mechanism to keep national forces at low levels for common defence. Yet it must be admitted that this fact was not foreseeable in the beginning. The final category, forces under NATO command, is to be reported directly to NATO in the framework of the Annual Defence Review, and it is SACEUR's responsibility to recommend any increases if such are deemed necessary. These were generally approved in the North Atlantic Council (NAC) or in one of its sub-committees,[32] in which all WEU member states are represented.

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[31] This resulted from the purpose for which this border police had been founded in 1951 with the concurrence of the Three High Commissioners, at a time, when Germany was not yet permitted to establish an army. Placed under the Minister for Internal Affairs, this police force is to protect the federal territory against illegal border crossings and other disturbances of public order within a 30 kilometres deep belt along the borders. In war and in case of internal emergencies it can be employed on the territory of the whole republic. In war this force has the status of combatants.

[32] The NAC convenes either on Heads of State or Government level (= NATO summit) or foreign minister level. The Defence Planning Committee (DPC) meets at least twice a year on defence minister level (DPC/MS) and regularly in permanent session (DPC/PS = ambassadors to NATO).

France unilaterally withdrew its forces from SACEUR's command by pulling out of NATO's integrated defence in 1966, although this was done for other reasons which had nothing to do with the control provisions under the WEU Treaty. Despite existing coordination agreements between France and SACEUR, French forces could not any longer be regarded as forces for common defence in the sense of Article 4 of the 1957-Agreement, nor be regarded as forces intended for overseas defence. Since then France has not participated in the Annual Review.

Production Restrictions

Protocol No. III (Control of Armaments) differentiates between armaments not to be manufactured (Part I) and armaments to be controlled (Part II). The Protocol consists of five articles of which two refer to Part I, and two deal with Part II. The final article states that the WEU Council may vary the list containing the armaments to be controlled by unanimous decision. Also part of Protocol III are four annexes. Annexes I to III contain the "Declaration of the Chancellor of the Federal Republic of Germany" made in London on 3rd October, 1954, which was documented in the Final Act.[33]

At first glance, Article I contains nothing more than expressing the Contracting Parties' appreciation of the Chancellors self-obligating statement not to manufacture atomic, biological and chemical weapons. A second look, however, reveals two interesting clauses.

Firstly, the obligation not to produce such weapons relates only to the territory of Germany. Nobody could imagine at that time that some Germans, although illegally by German law, would assist some foreign governments in producing such weapons in the future. The other clause reflects the then prevailing suspicion against Germany. It says that "...these armaments shall be more closely defined and the definitions brought up to date by the (WEU) Council..." (Article I), although the relevant part of the declaration was an exact repetition of Annex II to Article 107 of the EDC Treaty.[34]

Article II refers to conventional armaments listed in Annex III to Protocol III. Similar to Article I, the renunciation of producing these armaments is restricted to the territory of Germany. Furthermore, it states "...that if in accordance with the needs of the armed forces[35] a recommendation for an amendment to, or cancellation of, the content of the list of these armaments is made by the competent Supreme Commander

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[33] *The Final Act*, in: Brussels Treaty, *op. cit.*, pp. 207-215. The original declaration consisted of an introductory statement, which became Annex I to Protocol III, and a list of armaments Germany undertook not to manufacture. This list was split up into two separate annexes to Protocol III, Annex II containing definitions for atomic, biological and chemical weapons, and Annex III containing the remaining armaments.

[34] One phrase concerning the amount of nuclear fuel, the production of which was not to exceed 500 grams per year in order not to be regarded as suitable for atomic weapons, was left out: "Toute quantité de combustible nucléaire produite au cours d'une année quelconque en quantité supérieure à 500 grammes sera considérée comme substance spécialement conçue ou d'utilité essentielle pour des armes atomiques"; see "Traité instituant la Comunauté européenne de défense", in: *Bundesgesetzblatt*, Teil II, Nr. 3, Bonn, 29. März 1954, p. 373.

[35] In the French text the words "qui lui sont affectées" appear here.

of...(NATO), and if the Government of the Federal Republic of Germany submits a request accordingly, such an amendment or cancellation may be made by a resolution of the (WEU) Council...passed by a two-third majority..."

The related Annex III lists then the remaining armaments originally contained in Annex II to Article 107 of the EDC Treaty — namely long-range missiles, guided missiles and influence mines, warships with the exception of smaller ships for defence purposes and bomber aircraft for strategic purposes — although here, too, some changes crept into Adenauer's declaration. Under V and VI he listed the following items:

1. Warships, with the exception of smaller ships for defence purposes, are (a) warships of more than 3,000 tons displacement instead of the original 1,500 tons, (b) submarines of more than 350 tons displacement instead of the original submarines (!);
2. Bomber aircraft for strategic purposes instead of the original military aircraft.[36]

In 1954, this was accepted by the Nine-Power Conference despite the fact that two years earlier France appeared to be unable to accept it. This partially new list permitted Germany to manufacture within its territory, armaments including vicinity fuses, anti-air guided missiles, warships up to destroyer size of those days, submarines and certain aircraft types as long as limits specified in Annex III were observed.

Procurement Restrictions

Part II of Protocol III deals with armaments to be controlled. Article 3 refers to member states not having to give up the right to produce atomic, biological and chemical weapons, but does not include the territory of the United Kingdom. When the development of such weapons has passed the experimental stage and effective production of them has started *on the mainland of Europe*, the level of stocks that countries concerned will be allowed to hold on the continent shall be decided by a majority vote of the WEU Council.[37] In this context the United Kingdom, which is free to develop, produce and procure such weapons in its own territory, must seek approval by the WEU Council for stock levels transferred to the continent, even if it is done on the grounds of a NATO decision.

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[36] VI. Aéronefs militaires. Sont compris sous ce terme, les aéronefs militaires et les parties constituantes suivantes: a. cellules: armatures de section centrale, armatures d'ailes, longerons; b. moteurs à réaction: rotors de turbo-compresseurs, disques de turbines, brûleurs, rotors de compresseurs à écoulement axial; c. moteurs à pistons: blocs cylindres, rotors de turbo-compresseurs; see "Traité instituant...", *op. cit.*, p. 375.

[37] Since 1960 this has been simply ignored by France, cf., Walter Schütze, "Frankreichs Verteidigungspolitik 1958 bis 1983", in: *Militärpolitische Dokumente*, 1983, No. 32/33, p. 10; for background of French nuclear policy thinking see: Froment Meurice, *op. cit.*, pp. 12-14.

Annex IV to Protocol III contains the list of types of armaments to be controlled without specifying any stock levels. In a few cases definitions are added.[38] All the items applied to all relevant armaments in a country's possession, whether they are being produced in a factory, under military custody, or being transported from a civilian supplier to a military depot or from one nation to another in the framework of mutual assistance. This is a particularly delicate case, because sometimes either the two parties report them or none do, believing the other would do it.

In practice, Annex IV to Protocol III generates more questions than answers: does, for instance, a training aircraft capable of being used for operational employment fall under item (11), or does a small ship capable of a speed of more than 30 knots purely equipped with 40 mm anti-air self-defence guns and designed to quickly lay mines fall under item (8), although besides defensive and protective mining the decision on offensive mining could be taken? Is a 40 mm anti-air gun a self-defence weapon although it can be used offensively against smaller vessels? Such questions and others, that arose during daily work, were commonly resolved in practice together with the Armaments Control Agency (ACA).

Part III of Protocol IV again differentiates between armaments required for forces on the continent placed under NATO command, and those required for internal defence, police and other forces under national control on the mainland of Europe, including stocks held there for forces stationed overseas. Recognising the prevailing situation of that time and the purpose for modifying the Brussels Treaty, the drafters of Protocol No. IV were prudent enough not to specify certain levels, but rather to provide regulations that allowed for smooth adaptation of permitted quantities should circumstances so demand:[39]

- For forces under NATO command, each member state is to report annually to the ACA

(a) the total quantities of armaments listed in Annex IV to Protocol III required in relation to its forces;

(b) the quantities of such armaments currently held at the beginning of the control years;

(c) the programmes for attaining the total quantities mentioned in (a) by (i) manufacture in its own territory, (ii) purchase from another country, (iii) end-item aid from another country.

[38] These armaments are: (1) atomic, biological and chemical weapons, (2) all guns, howitzers and mortars of any types and of any roles of more than 90 mm. calibre including the elevating mass, (3) all guided missiles, (4) other self-propelled missiles of a weight exceeding 15 kilogrammes in working order, (5) mines of all types except anti-tank and anti-personnel mines, (6) tanks, including the elevating mass, turret castings and/or plate assembly, (7) other armoured fighting vehicles of an overall weight of more than 10 metric tons, (8) warships over 1,500 tons displacement; all submarines; all warships powered by means other than steam, Diesel or petrol engines or gas turbines; small craft capable of a speed of over 30 knots, equipped with offensive armament, (9) aircraft bombs of more than 1,000 kilogrammes, (10) ammunition for the weapons described in (2) above, (11) jet engines, turbo-propeller engines and rocket motors, when these are the principal motive power; air frames, specifically and exclusively designed for military aircraft except those at (i), (ii) and (iii) below; complete military aircraft other than: (i) all training aircraft except operational types used for training purposes, (ii) military transport and communication aircraft, (iii) helicopters.

[39] See Articles XIII to XIX of Protocol IV annexed to this chapter.

-For armaments of internal defence forces, police and other forces under national command including stocks held on the continent for forces stationed in overseas territories equal reports are to be submitted to the ACA. The Agency is then to accept the total quantities as appropriate for these forces, provided that they remain within the limits laid down in the mentioned 1957-Agreement (Article XV of Protocol IV).[40]

The 1957-Agreement contains in its Article 5 the instruction that member states shall report armaments for forces stationed on the continent, but intended for overseas defence, directly to the Council which shall accept the levels and automatically include them in the tables. This, although no provisions for change or amendments were foreseen in Article XVI of Protocol IV, which stipulates that for "other forces remaining under national control, the total quantities of their armaments to be accepted as appropriate by the Agency shall be those notified to the Agency by the members."

We have seen what is to be done with these tables mentioned already in the section on force levels above. They must be submitted to the WEU Council for unanimous approval. Protocol IV then continues in Article XVII that the total levels of armaments for internal defence and police forces as well as for other forces under national control shall correspond to the size and mission of the forces concerned.

Exempted from these regulations are atomic, biological and chemical weapons of those members who did not renounce their production. The relevant procedure applying to the levels of this category of weapons is laid down in Article III to Protocol III and already has been described at the very beginning of this sub-section. The only amplification contained in Article XVIII of Protocol IV refers to the Council's responsibility to notify the ACA about the decided stock levels.

When the Agency eventually has obtained the figures prescribed under the above regulations it shall report them to the Council as appropriate levels for the WEU members for the current control year. Any discrepancies between levels of armaments for forces under NATO command reported to the ACA and those levels reported to NATO during the Annual Review must also be reported (Article XIX).

In summary, we can conclude that the provisions described are book-keeping instruments. Keeping in mind, however, that stock levels were slowly and continuously increased over the years in response to the perceived threat, the most ef fective tool was the comparison of armaments levels planned by NATO in the Annual Review for the coming year against the amount of armaments in existence and *planned* to be acquired by member states. Yet planned armaments usually do not exist in reality. Later this fact turned out to be the ACA's biggest problem.

The Armaments Control Agency

Part I and II of Protocol No. IV define the constitution and the functions of the Agency. The ACA was established in Paris on June 21, 1955 in accordance with Article

[40] Agreement drawn up in implementation of Article V of Protocol No. II of the Brussels Treaty as modified by the Protocols signed at Paris on October 23, 1954; in: Brussels Treaty, *op. cit.*, pp. 185-191.

VIII (2) of the Modified Brussels Treaty. After having moved twice, it found its ultimate location in 1962. Since then it has been situated at the Avenue du Président Wilson.[41] It was led by a Director, assisted by a Deputy Director, and consisted of a staff of 52 personnel drawn equitably from member states. The Director and his staff were subject to the general administrative control of the Secretary General of the WEU and bound by the full NATO code of security. The ACA was organised in three departments dealing with:

(a) the examination of statistical and budgetary information to be obtained from member states and appropriate NATO authorities;
(b) inspections, test checks and visits;
(c) administration.

The tasks of the ACA were twofold. Firstly, it had to assure its members that German non-production of certain types of armaments was observed. Secondly, it was to control, in accordance with the procedures described above, the stock levels of armaments listed in Annex IV to Protocol III held by each member state on the continent. This control was to be extended to production, including such for exports, and imports as required to make the control effective.

For this purpose, the ACA had to scrutinise statistical and budgetary information obtained from both member states and NATO authorities, and to conduct test checks, visits and inspections at production plants, depots and forces. Article VII (2) (b) of Protocol IV, however, prohibits such checks, visits and inspections at depots and forces under NATO command. Such data required by the Agency were officially to be obtained through the medium of the high-ranking officer who was mentioned earlier. Because of this, in practise, inspections at depots and forces under NATO command were formally conducted by NATO officials in conjunction with ACA personnel.

This actually shortened the procedure remarkably. Results had then to be reported to the WEU Council. The Agency was to further ensure that materials and products destined for civilian use were excluded from its operations. On the other hand, member states were obligated to ensure inspectors, on their demand, free access to plants, depots and their relevant accounts and documents. This was difficult for private firms to achieve in some cases. To ease the work, member states concluded an agreement in 1957,[42] but this never came into effect because one party failed to ratify it.

By Article XXI of Protocol IV, the Contracting Parties were also obligated to inform the ACA on the locations of their depots and production plants for armaments listed in Protocol III on the mainland of Europe, even if plants were not in operation, but specifically intended for manufacturing such weapons. All reported locations had to be catalogued in a list.

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[41] Admiral G. Cantù (Director of the Agency), "The Agency for the Control of Armaments of WEU", in: unknown, Summer 1973; German translation: DOKFIZBw No. P 6700, UNCLASSIFIED, 30 January, 1976, p. 5.

[42] Convention concerning measures to be taken by member States of the Western European Union in order to enable the Ageny for the Control of Armaments to carry out its control effectively, and provisions for due process of law in accordance with Protocol No. IV of the Brussels Treaty as modified by the Protocols signed at Paris on October 23, 1954, signed at Paris on December 14, 1957, in: Brussels Treaty, *op. cit.*, pp. 161-183; not ratified by France.

Because the ACA was restricted in its control to depots and plants contained on this list, the WEU Council adopted a resolution in September 1957[43] in order to establish a procedure to include plants or depots, which previously were not contained on it, in case a country was suspected of unauthorised production. In such cases, the Director of the Agency was to approach the competent national authorities of the Member State on whose territory the establishment in question was located; where necessary, he had to subsequently approach the WEU Council. After this and after notifying the national authorities, he had the power to order visits, but not a test check or inspection, pending the inclusion of that establishment in the list notified to the ACA.

The Control Regime

The main tasks of ACA was to scrutinise statistical and budgetary information obtained from Member States and NATO. To this end the ACA forwarded questionnaires to all Member States very early of each year in accordance with Article XIII of Protocol IV.

The Annual Armaments Questionnaire

The Questionnaire asked for armaments of all kind which are subject to control in accordance with Protocol IV:

- amount of armaments required to be sufficient for the permitted force levels;
- total amount of armaments actually held as of 1 January of the current year specifying their locations and whether they belong to forces under national or NATO command;

new armaments expected during the year from national production minus equipment envisaged for export from overseas purchases from military assistance programmes, if applicable; and

-projected quantities as of 31 December of the current year in consideration of consumption, attrition and obsolescence.

Where applicable, nations were invited to report items separately for forces under national and under NATO command (Article XIII, Prot. IV). To enable the ACA to process and verify these figures, the Questionnaire also contained tables for reporting peculiarities of production programmes, purchases, exports and charging of losses as well as monetary expenditures and credits from national budgets for armaments being subject to control. Similar figures were required for preceding years. The usual deadline for answering was mid-April.

National replies were then evaluated and cross-checked with data provided by NATO. Figures on industrial production were compared with information obtained

[43] "Resolution implementing Article XXI of Protocol No. IV of the Brussels Treaty as modified by the Protocols signed at Paris on October 23, 1954; adopted by the Council of Western European Union on September 18, 1957", in: Brussels Treaty, *op. cit.*, pp. 157-159.

either directly from production plants or from other sources such as unclassified publications, newspapers and trade journals or even advertisements.

On the other hand, budgetary information proved to be an excellent tool for verifying the reliability of the replies as long as the Agency was familiar with the various procedures in member nations in case of possible delivery delays caused by industrial production shortcomings. The replies served therefore as a basis for calculating *actual* against *permitted* armaments levels and for on-site control measures. Besides their necessity stated in Article VII of Protocol No. IV these inspections were deemed necessary to further check the reliability of the replies.

On-Site Inspections

In amplification of Article XI of Protocol No. IV, which says that "inspections shall not be of a routine character," the WEU States adopted regulations for inspections, test checks and visits in early 1956,[44] just in time to apply such control measures to Germany. 1956 was the first year for German forces to be covered by a complete NATO Defence Review. These practises clarified the still pending questions of procedures.

The Director of the ACA was responsible for deciding in each case the scope and object of the control measures. He was, then, to notify the respective government of his decision through its NATO delegation, at least five working days prior to the planned date of the control measure. In special cases this period could be reduced to the minimum necessary to permit national authorities to participate in the control activities. It reckoned from the day of receipt by the national NATO delegation. Unless otherwise specified in the notification, the country was allowed to inform the unit(s) concerned.

Each official of the Agency conducting such measures was to carry a written Control Order issued by the Director which specified his name and rank, the object of his mission and the date of its execution. He had to make contact with the unit commander — or person in charge, if the object was a civil plant — and to forward a translation if required. Private interests of civilian factories were to be respected. As long as the accomplishment of his task was not endangered, he had to perform his duties with minimum interference in the normal running of the units or plants. The official could invoke the assistance of national authorities if this proved necessary for the accomplishment of his task.

The powers vested in ACA officials for inspections and test-checks of forces and military establishments not under NATO command as well as in non-military depots and production plants in accordance with the mentioned regulations were:

- the right to question those in charge or their deputies;
- the right to inspect and take extracts from documents and accounts; and
- the right of access to premises.

[44] "Regulations drawn up in execution of Article XI of Protocol No. IV of the Brussels Treaty as modified by the Protocols signed at Paris on October 23, 1954, adopted by Resolution of the Council of Western European Union on May 3, 1956," in: Brussels Treaty, *op. cit.*, pp. 143-149.

This right meant access to production plants and their offices to check production of end-items and components listed in Annexes II, III and IV to Protocol No. III; such control could be carried out at the assembly stage of the aforementioned end-items and components access to:

-workshops, depots, vehicle parks, bases and offices connected with the installation if military;
-premises used for storage, with ability to make a detailed survey of stocks of end-items and components, as referred to in Protocol III, as well as access to offices of these establishments if non-military.

Admiral Cantù, the former Director of the Armaments Control Agency, further explained the procedures from a more practical view. In contrast to the "Document Control" as he called the evaluation of replies to questionnaires and information gained from NATO, and where the ACA was responsible for controlling all armaments no matter under whose command it was placed, and despite the fact that the Agency was responsible for inspecting non-NATO facilities only, Cantù argues that in practice the possibility to differentiate between armaments under NATO and national command became clear rather quickly. His reference to inspections being usually conducted commonly by WEU and NATO inspectors, however, points to the problems encountered in reality. For at least in Germany, equipment subject to control was usually stored in depots without separating those for NATO or national use.

Cantù further points out that groups of ACA inspectors, as a rule, consisted of three members who generally acted in cooperation with national authorities. On site, they started work with screening the general description of the facility, its storage capacity, location of equipment within the facility and methods of book keeping. On the basis of the unit's records, they then checked as a first step whether the amount of armaments as of 1 January was consistent with the reported figures in the reply to the questionnaire, calculating outgoing and received stocks since the beginning of the year. In the second step they compared the actual stocks at hand with records by physically counting equipment and ammunition. Due to the amount of ammunition usually held in depots, however, the inspectors mostly restricted themselves to random checks.

Inspections of production facilities of civilian plants were conducted in a different way. Here the ACA compared the production output with the figures obtained from replies with the annual demand, postulated at the beginning of the year. In addition, the output was compared with the plant's actual and projected capacity. However, problems arose quite often by unpredictable changes in the production output, for instance, because of unforeseen price rises of raw material or overproduction to compensate for short comings of the previous year. Therefore, examinations of industrial plants had to be somewhat more flexible. Inspections of the private sector were more difficult and demanding than those of military establishments. Thus, inspectors were mostly restricted to *assessment* rather than to *verification* of Treaty compliance, although they were allowed unrestricted access to production plans, amount of current orders, information on received material accounts or movements of characteristic material necessary for production of armaments.

Consequently, Cantù very rightly concludes that the required degree of accuracy was reached only when inspecting the same plants over a longer period of years.[45] According to Cantù between 1968 and 1973 an average 70 inspections per year were conducted in all seven member states at depots and units (quantity control), production plants (production control) and other firms or establishments with the capability to manufacture armaments (non-production control). Taking into account that the same production plants had to be inspected for a couple of consecutive years in order to achieve the required accuracy, it then becomes obvious that practice diverged from the theoretically sound control mechanisms. But this practical divergence was a question of the WEU Council's political will to supply the ACA with the necessary finances and personnel.

In expectation of expeditious ratification of the "Convention concerning measures to be taken by member States of the Western European Union in order to enable the Agency for the Control of Armaments to carry out its control effectively" (the earlier mentioned 1957-Agreement) by all member states, the German parliament adopted a national law enforcing this Convention on April 10, 1961.[46] But even if a state had not adopted a national enforcement law, ACA would have been able to conduct controls because Article 2 (2) of the Convention contained a clause, that then the State's financial administration should apply.[47] Yet, the Convention itself did not come into effect.[48] The reason why the control worked satisfactorily though was that nations concerned, in particular Germany, had a clear interest to demonstrate their compliance as a tool of confidence building. On the other hand, the Treaty left enough opportunities for raising force levels and related levels of armaments during the years of the Cold War.

The Link Between WEU and NATO

We already mentioned the close cooperation between WEU and NATO under the provisions of Article IV of the Modified Brussels Treaty and — for several times — the NATO Annual Review, the framework in which NATO may either decide on changes of force and related stock levels (Prot. II, Art. III) or recommend amendments to, or cancellation of, production restrictions contained in Annex III to Protocol III (Art. II of Prot. III).

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[45] Cantù, *op. cit.*, pp. 26-32.

[46] "Gesetz zu dem Übereinkommen vom 14. Dezember 1957 über Rüstungskontrollmaßnahmen der Westeuropäischen Union vom 10. April 1961", in : *Bundesgesetzblatt*, Teil II, Bonn, 1961, p. 384.

[47] In his excellent analysis Seemann describes the internationally and nationally legal implications of the WEU control regime for Germany, including problems of controlling chemical industries, under the assumption that the Convention was in force, Klaus Seemann, "NATO-Reform und Stellung der Bundesrepublik Deutschland im Rüstungskontrollsystem der Westeuropäischen Union", in: *Wehrwissenschaftlische Rundschau*, 18.Jahrg., 1968, Heft 4, pp. 181-207, particularly pp. 192-206.

[48] Even in 1975, thus 18 years later, the WEU Assembly kept advising the Council to continue to press for ratification of the "Convention on the due process of law signed on 14th December 1957" by the remaining WEU member, see Assembly of Western European Union, *Application of the Brussels Treaty - Reply to the Twentieth Annual Report of the Council*, Document 673, 29th April 1975, pp. 2 and 7-9.

NATO's Force Planning Responsibility — A Circumvention of Procurement Restrictions?

One of NATO's most important purposes during the Cold War was to ensure an effectively common defence against an attack of the Warsaw Pact (WP). To this end, NATO annually assessed the suitability of its own forces and the anticipated threat in terms of political, military and economic capabilities based on information about WP-states and yearly replies to the Annual Defence Planning Questionnaire (DPQ). This was similar to the WEU Questionnaire but covered a planning period of six years. Therefore, potentially differing country plans were known in advance and NATO could coordinate.

Even though planning remained a national responsibility, NATO issued biannual Force Goals, reflecting both the threat and the resulting defence requirements specified for each country. Assessments, replies and Force Goals were endorsed in the Military Committee and approved on the political level in the DPC. Each year Defence Ministers stated their firm commitment to fulfil the requirements listed under the first year of the NATO Five Years Force Plan. This commitment and the Force Goals became then the basis for the following year's DPQ-replies. The annual cycle is known as the "NATO Annual Review."

As early as 1948/49, some former German Naval Officers began to consider requirements for a West German Navy should Germany ever again reach the permission to rearm.[49] During the protracted EDC negotiations, these officers adapted their ideas to the changing security situation. They came to the conclusion that levels for naval units set forth in the *Accord spécial* and politically accepted by the parliament were not sufficient from a military viewpoint. Hence, they looked for an opportunity to modify navy-relevant force levels. On the other hand, since the whole operation of modifying the Brussels Treaty served the purpose of getting German manpower for NATO's insufficient land and air defence and to allow for the French to save face, only vaguely defined ceilings for Army and Air Force seemed appropriate.

At the very beginning, being unfamiliar with NATO's Planning Procedures, Admiral Gerlach indicated that the way out was found in Article II of Protocol No. II. It stated that the level of German naval forces should be as necessary for the defensive missions assigned to them by NATO. But how then to trigger a land-minded SACEUR to propose a mission for a seemingly unnecessary Navy? You simply "forget" a letter describing the envisaged mission on one of SACEUR's desks — and wait. It must be stressed that the French Admiral Lemmonier, then Naval Deputy SACEUR, was very helpful. Roughly one month later, on 6 July 1955 the letter signed by SACEUR was

[49] This was supported (Ruge) - if not initiated (Gerlach) - by high-ranking U.S. naval officers. After the 3 High Commissioners had got in touch with Adenauer on the question of a German defence contribution at the end of 1949, a national conference was convened in cloister Himmerodt in Oct. 1950, which resulted in first thoughts on the amount and organisation of German forces (Himmerodt Memorandum). In 1951, after the Wagner Memorandum (14 March 1951), discussions with the 3 High Commissioners continued in the vicinity of Bonn (Petersberg Talks). Both, Ruge and Gerlach were actively involved in these activities. See Adm. a.D. Heinrich Gerlach, "Aus den Anfängen der Bundesmarine", unpublished lecture paper, lecture held on January 21, 1971 at Führungsakademie der Bundeswehr, Hamburg, 1971; pp. 6-9; for Wagner Memorandum, *ibid.*, Annex 1; and Friedrich Ruge, *In vier Marinen*, Bernard & Graefe, München, 1979, pp. 278-289.

received by General Speidel who forwarded it to the Government for further use. After difficult negotiations in WEU, the Navy ceilings were raised.[50]

In 1957 the Federal German Navy already exceeded the original force levels of the *Accord Spécial* by 1.980 personnel, two submarines (instead of none), thirteen supply/auxiliary vessels (instead of none), and four aircraft. Most of the vessels and all aircraft were received from the U.S., UK and France by military assistance because German shipbuilding was still in the beginning stages and production restrictions were effective. Since that time NATO's force planning procedures have been applied and force levels have been raised by NATO as required.

It is worth mentioning that France withdrew from NATO's integrated defence in 1967, which does not mean that there is no French representative in the DPC. Therefore the required unanimous vote for changing force levels is generally assumed if the French representative knows of the planned changes in advance and does not object, even if he is not present whilst the decision is taken in the DPC.

Despite Article III of Protocol II stating that decisions on increases shall be taken *either* in the WEU Council *or* in NATO, such decisions were actually taken in respective NATO fora since the adoption of the described procedures had been unanimously approved. Once these procedures had been established (and they have — although rudimentary — existed since the Lisbon meeting), the WEU Council hardly had influence as long as all WEU member states agreed in the DPC.[51] What looks like a circumvention was in fact intention.

Modifications in Construction Restrictions

Although France had suffered in the past the most from German army and air forces, the production/construction restrictions for the German Navy were the most constraining ones. This becomes evident if one looks at the number of modifications of the production restrictions.[52] Out of a total of eleven changes six applied purely to the Navy versus one each for Army and Air Force, one applied to Navy and Air Force, and one to all three services; the final change applied to Army and Air Force.

Responsibility for modifying construction restrictions rested exclusively with the WEU Council. A recommendation for change by SACEUR and a formal request by Germany were mandatory, since Force Proposals[53] were discussed between the respective MNC.[54] If the reasons for a specific proposal were sound, the MNC adapted the

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[50] Adm. a.D. Heinrich Gerlach, *op. cit.*, pp. 28-31; for SACEUR's letter see *ibid.*, Annex 4; for the development of Navy ceilings, see Dankward Gerhold, "Auftrag und (Schiffs-) Material - eine Untersuchung zum Verhältnis zwischen Mîglichkeiten und Mitteln; dargestellt am Beispiel der deutschen Marine und ausgewählter Waffensysteme unter Berücksichtigung der Obergrenzen des WEU-Vertrages (1955-1972)", unpublished lecture paper, Führungsakademie der Bundeswehr, Hamburg, 1986.

[51] In some cases, particularly in the 1950s and 1960s, the WEU Council decided in addition to the DPC. It is unclear, whether this was done for purely formal reasons. The Treaty text is unambiguous.

[52] See lst of amendments and changes at annex to this chapter.

[53] Before approval by the DPC, Force Goals were called Force Proposals.

[54] MNC = Major NATO Commander, i.e. SACEUR (Supreme Allied Commander Europe), SACLANT (Supreme Allied Commander Atlantic), CINCHAN (Commander-in-Chief Channel).

proposal list. When proposals came before the DPC for approval, the origin was unknown because they all were, in fact, MNC proposals. If a Force Goal fell under the provisions of Annex III to Protocol III, SACEUR recommended a modification to construction restrictions which were thereafter echoed by a formal request of the country concerned.

With regard to the Navy, a closer look at the modifications reveals the gradual removal of limiting conditions. Due to the German parliamentary unwillingness to grant shipbuilding programmes prior to required WEU Council permission, Annex III to Protocol III had to be amended first. Despite obtaining Council permission in all requested cases some programmes failed parliamentary approval for financial reasons. This explains the differences between the adopted changes to Annex III and the actual construction programmes of the Navy. On the other hand, once modifications of production restrictions were effective industry was free to make use of the raised limitations to the extent possible. What the Navy could not afford was nevertheless produced — for export.[55]

One modification, however, crept into the list of changes without German request: the prohibition of nuclear propulsion for warships in 1968. In that year Germany was going to launch a nuclear driven merchant ship for scientific and industrial research, and demonstrated her ability to produce nuclear ship propulsion. Although this was in accordance with the WEU Treaty which excluded civilian use and scientific, medical and industrial research[56] it was seemingly perceived by other member states of being just a question of time that Germany would seek permission to construct nuclear driven submarines.[57]

Peculiarities of Protocol III - Could Germany have possessed foreign-produced SSNs?[58]

Article I of Protocol III as well as Adenauer's declaration made in London on October 3, 1954[59] refer to the non-production of atomic, biological and chemical weapons, not to purchase and possess them. Yet, Adenauer made the declaration in the understanding that the unilateral renunciation was given under the proviso of the clause *rebus sic stantibus*, customary in international common law. The proviso remained unquestioned when discussed with Secretary of State Dulles and the other foreign ministers.[60] Although it left options to Germany, no later Government has ever claimed them.[61] The proviso was finally given up when Germany ratified the Non-Proliferation

[55] See Assembly of Western European Union, *op. cit.*, p. 6.

[56] See Annex II to Protocol No. III.

[57] Maybe France, being the latest country to launch its first nuclear propelled ship (1967) after the USA (1954), USSR (1959) and UK (1960), and prior to F.R. Germany (1968) and P.R. China (1974), wanted to preserve its technological advantage; see Jean Labayle Couhat, (ed.), *Combat Fleets of the World 1978/79*, Annapolis, Md., 1978, pp. 57, 106, 186, 420, 440, 537.

[58] SSN: Nuclear propelled submarine.

[59] *The Final Act*, in: Brussels Treaty, *op. cit.*, pp. 207-209; see Annex I and II to Protocol III.

[60] Konrad Adenauer, *Erinnerungen* 1953-1955, Stuttgart, 1966, p. 347.

[61] When in the early 1960's Chancellor Erhardt opted for German participation in the nuclear Multilateral Force (MLF), this referred to possession only. The MLF project finally failed, due to the resistance of the British Labour Government elected in Autumn 1964, see Walter Schütze, *op. cit.*, p. 12.

Treaty of July 1, 1968 and deposited the instrument of ratification on May 2, 1975.[62] By then, she also renounced the purchase and possession of nuclear weapons.[63]

Civilian use of nuclear energy, however, does not fall under the provisions of the WEU Treaty, and nuclear fuel used in scientific or industrial power plants is enriched to a lesser degree than that required for nuclear explosives. It is referred to in subparagraph (c) of Article I of Annex II to Protocol III (definition of prohibited production). Warships as well as submarines are not considered weapons although they carry them. All nuclear propelled ships in the world are actually driven by steam turbines which were explicitly per mitted in Article V of Annex III to Protocol III. The only but decisive difference is the substitution of oil by nuclear fuel. Thus, until the imposed restriction of 1968, the production of nuclear powered warships and the construction of nuclear driven submarines was obviously not forbidden. Allowance for purchase and possession, however, remained unaffected.[64]

Despite operational advantages, reasons for not acquiring a nuclear propulsion in the naval realm were manifold. First, space for a nuclear reactor could not be provided in "midget" submarines allowed under the construction restrictions. When limits were gradually lifted to the minimum displacement possibly feasible for nuclear propulsion (1971) it was forbidden by the 1968-restriction. Second, nuclear propulsion is cost-ineffective unless operational (air independent/mainly ballistic submarines) and/or technical advantages (fast going, large combatants like aircraft carriers/cruisers/hunter-killer submarines) outweigh costs. Third, to fully exploit their advantages, SSNs require deep water. German submarines formerly designed to defend against seaborne attacks operate in shallow coastal waters. Any attempt by the Navy to seek parliamentary approval for acquisition of SSNs would have failed, for the main reason that Germany had no serious interest in nuclear naval propulsion.

The End of Protocol III

Restrictions for a Single Nation - A Discrimination?

When Germany ratified the Modified Brussels Treaty, German politicians and industry were far away from any interest in military research, development or production because everybody was engaged in rebuilding the free part of Germany. The German *economic miracle* gives evidence for this behaviour. A saturation of the internal market was gradually reached in the early 60's. Only then did industry start to direct its

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[62] Jozef Goldblat, *Arms Control Agreements*, Stockholm International Peace Research Institute (SIPRI), London, 1982, p. 260.

[63] See Article II of the "Treaty on the Non-Proliferation of Nuclear Weapons", in: Jozef Goldblat, *op. cit.*, p. 156.

[64] The NPT, too, explicitly allows for peaceful use by all parties to the Treaty as long as International Atomic Energy Agency (IAEA) safeguards are applied. A broad interpretation of this understanding was demonstrated by the Soviet Union (party to the NPT) in the mid 1980's when a nuclear driven submarine was transferred to the Indian Navy (not party to the NPT). This was internationally not considered a breach of the NPT's Article I.

attention to the defence market. But military planners and industry still were satisfied as long as production restrictions were raised when required.

In the 1970's, however, particularly after the first oil crisis when a recession especially endangered the survival of the ship building industry, company managements tried to offset missing domestic orders by export production. Related to the enlargement of the Soviet Fleet, a world wide requirement for warships existed. Yet many requests were beyond the limits. So dockyards and politicians quickly realised that the required recommendation by SACEUR to change construction restrictions was unachievable because it was responsible only for NATO's defence requirements. In consequence, some large orders for naval combatants went to Germany's neighbouring countries. Germany suddenly became aware of the discriminating elements in the rules of the armaments control regime that have existed for decades but have never been felt as such.

When exploring the grounds for cancellation of discriminating construction rules with various member states on a bilateral basis, it became clear that neither economic reasons nor an argument based on the clause *rebus sic stantibus* would have been acceptable for a two-thirds majority required in accordance with Article II of Protocol III. But again, someone of SACEUR's staff was helpful.[65] Germany omitted economic reasons and based her rationale on study results recently concluded in NATO and asked for closer cooperation in the armaments field, aimed at reducing production costs.

Germany argued that she was unable to assist in reducing costs unless she could fully participate on an equal footing, which implied to eliminate construction restrictions. The message was understood, and SACEUR recommended the required change — amongst others — for the security policy reason of maintaining warship repair facilities in Germany. The WEU-Council followed SACEUR's recommendation and cancelled Paragraph V of Annex III to Protocol III on 21 July 1980.[66] The cancellation also included the prohibition of producing nuclear propulsion for warships. Other production restrictions, however not related to ship building remained in effect.

Revitalisation of the WEU - A Process Still Going On

One reason for the hesitation to lift production restrictions discovered during the bilateral exploratory talks proved to be the existence of the ACA. The paycheck for ACA personnel needed to be rationalised, and this turned out to be a major obstacle. Therefore, another approach was required to offset the diminishing control responsibilities by new tasks. Revitalisation became the catchword. Various initiatives were discussed. When the way ahead became recognisable, the German Foreign Minister Genscher started a new attempt to get rid of the remaining but obsolete production restrictions in the conventional field, taking into account two recommendations of the WEU-Assembly on this matter in 1982 and 1983.[67]

[65] On 16 October 1979 a German naval envoy was advised during an unofficial discussion not to proceed prior to the conclusion of currently ongoing studies on Long Term Defence Planning and Armaments Cooperation. Only then and if a German request was firmly based on the study results SACEUR would be ready to support it.

[66] *Bundesgesetzblatt*, Teil II, Bonn, 1980, p. 1180.

[67] Der Bundesminister für Verteidigung, Fü S I 3 - Az 35-20-05: "Truppeninformation - Aufhebung von Herstellungsbeschränkungen bei konventionellen Waffen", UNCLASS, Bonn, 28 June 1984.

In a letter of late May 1984 forwarded through the German Ambassador to NATO, Genscher asked SACEUR for support.[68] And indeed, SACEUR recommended the elimination of the last production restrictions on 8 June 1984. Although decisions on new tasks for the ACA remained reserved for the 30th anniversary meeting in Rome, the WEU-Council decided on 27 June 1984 to lift all conventional production restrictions[69] after having received a formal request by Germany on 15 June 1984.[70]

At their meeting in Rome on 26 and 27 October 1984, foreign and defence ministers decided on new tasks for the ACA[71] and on gradually abolishing the remaining quantitative controls on conventional weapons:

> "The Ministers agreed that these controls should be substantially reduced by 1 January 1985 and entirely lifted by 1 January 1986. The commitment and controls concerning ABC weapons would be maintained at the existing level and in accordance with the procedures agreed up to the present time."[72]

Since 1984, many proposals have been discussed on how to strengthen the European part of NATO. On the other hand, some member states of the European Community (EC) considered WEU to be the EC's defence organisation. So the meaning of revitalisation changed over the years: It shifted from the objective of searching the elimination of remaining production restrictions to the present idea of having an organisation for common foreign and security policy. The Maastricht summit of November 1991 indicates this new direction. Final decisions, however, have not been taken yet.

Conclusions

The modification of the Brussels Treaty served two purposes: To get the urgently needed German manpower for the West's common defence and to control German rearmament. The German entrance fee to NATO was the self-imposed renunciation of the production of certain armaments. These restrictions were immediately built into the Modified

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[68] The German rationale was: "The elimination of the last prohibitions on the manufacture of conventional weapons under the WEU Treaty is,..., an important step in the endeavour to strengthen WEU as the European pillar of NATO and hence reinforce the Alliance as a whole. The elimination of the prohibition is, for military reasons, desirable for the mutual benefit of the Allies since it underlines the capability of member states of NATO to fully employ, should it become necessary, all of their defence recourses across the entire spectrum of their potential."

[69] "Resolution related to Annex III to Protocol No. III", WEU-C (84) 115, London, 28 June 1984.

[70] The Soviet Union was the only state that protested; see "Aide-mémoire", in: *Europa Archiv*, Folge 15, 1984, p. D457; for German response; *ibid.*, p. D458.

[71] The new tasks were threefold:

- to study questions relating to arms control and disarmament whilst carrying out the remaining control functions;
- to undertake the function of studying security and defence problems;

to contribute actively to the development of European armaments cooperation, see WEU-C (84) 166, *Institutional Reform of W.E.U.*, London, 1 November 1984, p. 10.

[72] *Ibid.*

Brussels Treaty in order to make them legally binding. On the other hand, possession of all armaments in question was allowed, although their production was restricted or even prohibited. So Allies could easily control what was transferred to Germany. Although this was acceptable for Germany, it later turned out these production restrictions obviously served another purpose as well: To preserve the Allies' technological edge. Much effort was required, particularly in times of world-wide recession, to correct this discrimination.

The control regime as such worked satisfactorily although it was seriously hampered by non-ratification of a convention dealing, among other items, with sanctions to be allied in case of non-compliance. Due to this fact the convention, although ratified by Germany, was never brought into effect. On the other hand, the Armaments Control Law[73] of 20 April 1961 can be seen as a national legislation enforcing the WEU-Treaty. Part A of the Armaments List annexed to the Armaments Control Law contains exactly those armaments which are to be also controlled by the ACA.[74] Thus, should ACA officials not have been allowed access to production plants by private company managements, national authorities could have investigated on a nationally legal basis. As indicated earlier, it was in the German interest to comply with all control regulations in order to promote confidence building.

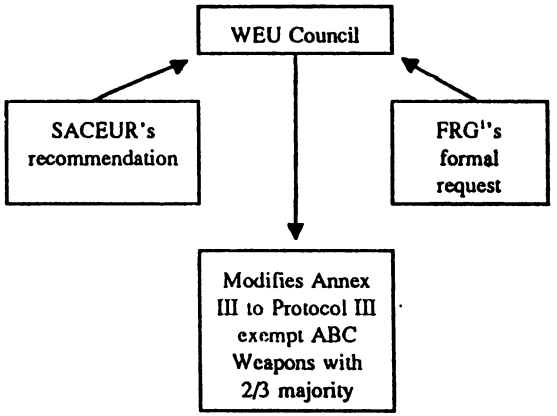
In response to the thesis that the armaments control regime of WEU could act as a model for future arms control agreements, it must be seen that this control regime was established between Allies. Up to now, arms control treaties have been concluded between antagonistic parties. Multinationally manned control agencies — as the ACA was — have never again been agreed to. In the meantime, other and mostly better control mechanisms have been invented. It may be that in the unforeseeable future, when circumstances are similar to those in the early 50's, the control regime of the Modified Brussels Treaty may revive. But this seems to be very unlikely.

[73] Kriegswaffenkontrollgesetz, in: *Bundesgesetzblatt*, Teil I, Bonn, 1961, p. 444.

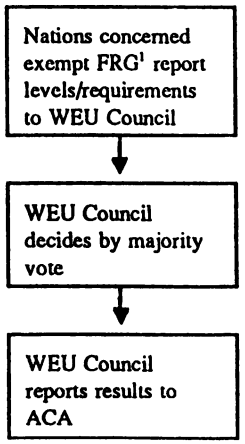
[74] See "Merkblatt über die Aufgaben und die Befugnisse des Rüstungskontrollamtes der Westeuropäischen Union bei der Durchführung von Kontrollen in Produktionsanlagen und in sonstigen privaten (nicht militärischen) Einrichtungen", in: Der Bundesminister für Wirtschaft, *ZB1 - 11 09 21*, Bonn, 1 October 1973, p. 11.

Fora Responsible for Modifications and Control

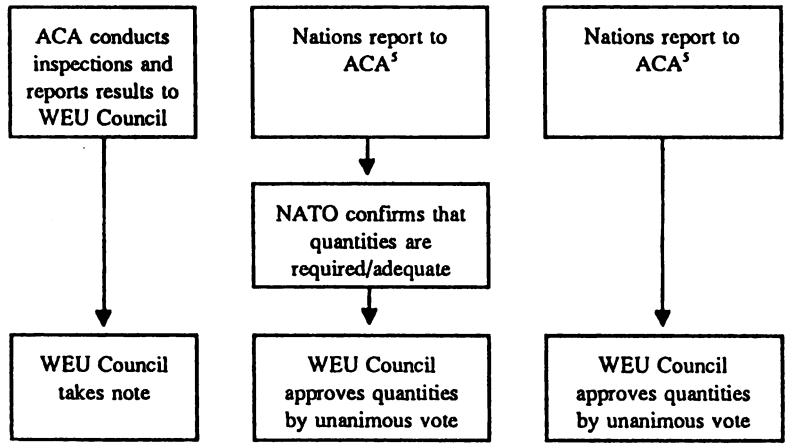
Modifying list of armaments not to be manufactured (Art. II of Prot. III)



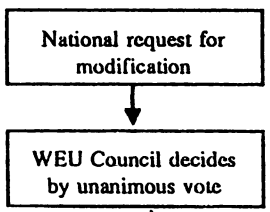
Increasing level of ABC Weapons on the Continent (Art. III to Prot. III)



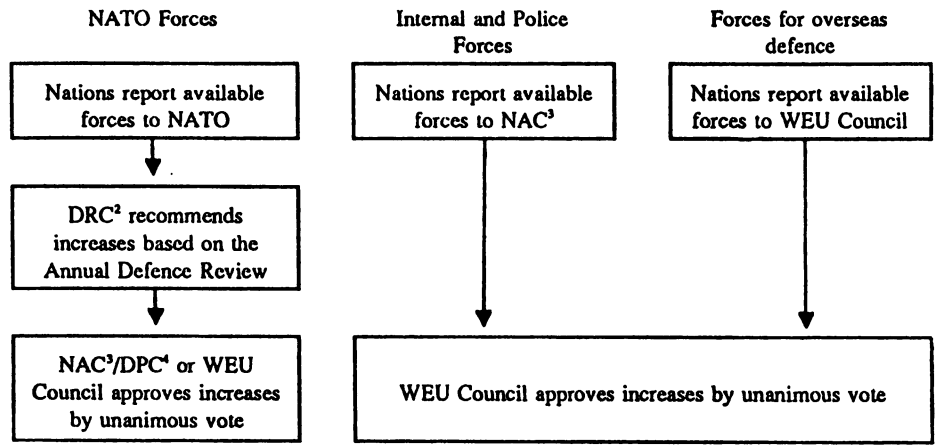
Control of Armaments for



Modifying list of armaments to be controlled (Annex IV to Prot. III)



Increasing Force Levels (Art. III and V of Prot. II)



[1] Federal Republic of Germany
[2] Defence Review Committee
[3] North Atlantic Council
[4] Defence Planning Committee
[5] Armaments Control Agency

Chapter 6
Japan: A Case of a Non-Control Regime

Takako Ueta

Introduction

"Today the Japanese Armed Forces throughout Japan completed their demobilisation and ceased to exist as such. These forces are now completely abolished. I know of no demobilisation in history, either in war or in peace, by our own or by any other country, that has been accomplished so rapidly or so frictionlessly."

— October 16, 1945. General of the Army, Douglas MacArthur's Statement on the Completion of the Demobilization of Japanese Armed Forces. [1]

On August 14, 1945, the Imperial Japanese Government communicated to the governments of the United States, Great Britain, the Soviet Union and China that His Majesty the Emperor had issued an Imperial Rescript on Japan's acceptance of the Potsdam Declaration of July 26. This was the proclamation that defined terms for Japanese unconditional surrender. On September 2, on the U.S. Warship Missouri at Tokyo Bay, Japan signed the Instrument of Surrender. Japan remained under the Allied occupation regime for nearly 7 years and 8 months until the San Francisco Peace Treaty entered into force on April 28, 1952.

As indicated in the above statement by General MacArthur, the Japanese demobilisation process was smooth and rapid. The United States executed the Allied occupation policy to democratise and demilitarise Japan by way of the Japanese government. Mainly based on MacArthur's idea and the draft of the General Headquarters of the Supreme Allied Commander for the Allied Powers (GHQ SCAP), and supported by the Japanese people, the Diet of Japan adopted the Japanese Constitution. It came into effect on 3 May, 1947. Article 9 reads: "Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as means of settling international disputes. In order to accomplish the aim of the preceding paragraph, land, sea, and the air forces, as well as other war potential, will never be maintained. The right of belligerency of the state will not be recognized." This constitution has never been amended.

During the occupation period, the Cold War turned into a hot war in the Korean Peninsula. The San Francisco Peace Treaty, signed on September 8, 1951 did not provide any armament limitations nor inspection regime. The United States wanted to continue to be stationed in Japan and pursued a possible Japanese remilitarisation in the midst of the Cold War in Asia.

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[1] Foreign Ministry of Japan, ed., *Nihon Senryō oyobi Kanri Jōyō Bunshosyū (Documents Concerning the Allied Occupation and Control of Japan)* (DCAOC), vol. II, 1949, Tokyo, p. 129.

Among the defeated states of the Second World War, the Japanese case seems to be special since the victorious powers did not impose a disarmament control regime on Japan. This chapter will first depict the Allied demilitarisation policy, and secondly, deal with the origins of the San Francisco Peace Treaty.

The Demilitarisation Process

From the Potsdam Declaration to Surrender

The Cairo Declaration of November 27, 1943 Great Britain, the United States and China committed to "continue to preserve [in] the serious and prolonged operations necessary to procure the unconditional surrender to Japan."[2] After the surrender of Germany on May 8, 1945, the heads of state of Great Britain, the United States, and the Soviet Union held a summit meeting in Potsdam from July 17 to August 1 to settle German and East European problems. During that Summit (July 26), the Potsdam Declaration strongly warned of the "inevitable and complete destruction of the Japanese armed forces and just as inevitably the utter devastation of the Japanese homeland," by the full application of Allied military power. It enumerated the following conditions of surrender:

- Elimination of militarism;
- Allied occupation of the points in Japanese territory until "a new order of peace, security, and justice is established" and until "there is convincing proof that Japan's war-making power is destroyed";
- the territorial limitation of Japanese sovereignty which was provided in the Cairo Declaration;
- repatriation of the Japanese military forces after complete disarmament;
- stern justice to all war criminals, and establishment of democracy; and
- non-permission for the maintenance of armament industry and access to raw materials for that purpose.

The last point of the Potsdam Declaration called upon the government of Japan to "proclaim now the unconditional surrender of all Japanese armed forces, and to provide proper and adequate assurances of their good faith in such action." It warned that "the alternative for Japan is prompt and utter destruction".[3]

After the nuclear attacks against Hiroshima and Nagasaki on August 6th and 8th, and the Soviet entry into the War against Japan on August 9th, the Japanese government finally decided to accept the Potsdam Declaration, "with the understanding" that the Declaration did not prejudice the "prerogatives of His Majesty as a sovereign ruler".[4]

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[2] *Ibid.*, vol. I, 1949, p. 1.

[3] *Ibid.*, pp. 7-11. For the full text of the Potsdam Declaration, see Annex VIII.

[4] *Ibid.*, p. 13. For the process of Swiss intermediation in Japan's Acceptance of the Potsdam Declaration, see Takako Ueta,"Teikokuseifu no Potsudamu sengen judaku o meguru Suisu no Chūkai 1945-nen 8-gatsu," (The Intermediation of Switzerland in Japan's Acceptance of the Potsdam Declaration, August 1945), *Kokusaihō Gaikō Zasshi*, vol. 86, No. 4 (Oct., 1987), pp. 40-70 (in Japanese).

With regard to this Japanese condition, the United States Secretary of State Byrnes sent (via Switzerland) the following answer on behalf of the four Allied powers:

-From the moment of surrender, the authority of the Emperor and the Japanese Government to rule the state shall be subject to the Supreme Commander of the Allied Powers, who will take such steps as he deems proper to effectuate the surrender terms.

-The ultimate form of government of Japan shall, in accordance with the Potsdam Declaration, be established by the freely expressed will of the Japanese people.[5]

On August 14, the Japanese Government communicated the acceptance of the Potsdam declaration to the four Allied powers via Switzerland.[6] At 4:00 pm on August 16, the Emperor ordered immediate cease fire of all the armed forces. At the end of the Pacific War, almost all the military and industrial facilities, and major cities had been destroyed by repeated strategic bombardments and two nuclear attacks. The U.S. Occupation Force carried out massive food transportation to the starving Japanese people. Around 2,600,000 Japanese military and civilians died or were missing in the course of the Pacific War.

Immediately after the surrender, the Joint General Staff of Japan began planning demobilisation on their own in order to carry it out promptly[7]. This demobilisation was an unprecedented operation. At the end of the war, the total sum of the Japanese army was 7,200,000; on the mainland of Japan, there were 2,400,000 army personnel and 1,300,000 navy; the overseas army consisted of 3,100,000 and the navy, 400,000. The overseas forces were spread over the broader area of the Western Pacific and Asia[8].

Pursuant to the Provisions of the Instrument of Surrender on September 2, the Office of the Supreme Commander for the Allied Powers issued on the same day, "General Order No.1, Military and Naval", which was attached to the "Directive No.1".

"General Order No.1" bade all the Japanese Commanders to cease hostilities and to unconditionally surrender to the designated representatives of the Allied Powers. This order demanded detailed information on the Japanese armed forces, its equipment and facilities including all factories, research institutions, and so on.[9]

The Allied Demilitarisation Policy in the Early Stages

The Allied occupation policy was based on the "United States Initial Post-Surrender Policy for Japan" of September 22, 1945[10], which was supplemented by the "Basic Initial Post-Surrender Directive to Supreme Commander for the Allied Powers

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[5] *DCAOC*, vol. I, p. 15.

[6] *Ibid.*, pp. 15-17.

[7] Takushiro Hattori, *Daitōa Sensō Zenshi* (*A Complete History of the Greater East Asia War*), Tokyo, 1965, p. 956. (in Japanese).

[8] *Ibid.*, p. 955. In addition to the military, 3,100,000 Japanese were abroad at the end of the war. (*ibid.*, p. 956).

[9] "General Order No. 1," DCAOC, vol. I, pp. 33-43. For the full text of Instrument of Surrender and of General Order No. 1, see Annex IX .

[10] *Ibid.*, pp. 91-107.

for the Occupation and Control of Japan" of November 1.[11] These documents made clear that disarmament and demilitarisation were "the primary tasks of military occupation". The Allied Powers also pursued "the economic demilitarisation" of Japan. For this purpose, the Supreme Commander was in principle to "stop immediately and prevent the future production, acquisition, development, maintenance, or use of all arms and other implements of war[12], the details of which had been defined in Directive No. 3."

"Directive No. 3" of September 22, 1945 contained the guidelines for economic demilitarisation. It ordered the Japanese Imperial Government to "stimulate and encourage the immediate maximum production of all essential consumer's commodities, including industrial, agricultural, and fisheries products, and commodities necessary to the production of such essential consumer's goods." It was necessary to submit an application for the conversion of the plants, which had engaged in the production of prohibited items to the production of "essential consumer's commodities".[13] Production of the following items was not permitted:

- arms, ammunition, or implements of war;
- parts, components or ingredients especially designed or produced for incorporation into arms, ammunition, or implements of war;
- combat naval vessels;
- all types of aircraft, including those for civilian use; and
  parts, components, and materials especially designed or produced for incorporation into aircraft of any type.

"Directive No. 3" aimed at the preservation and maintenance for inspection of "all plants, equipment, patents, and other property, and all books, records, and documents of [the] Japanese Imperial Government or private industrial companies and trade and research associations" which had manufactured the above mentioned items or any of the following items:

- iron and steel;
- chemicals;
- non -ferrous materials;
- aluminium;
- magnesium;
- synthetic rubber;
- synthetic oil;

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[11] *Ibid.*, pp. lll-165. The occupation policy was to be formulated by the Far Eastern Commission (FEC) which consisted of 13 states. The Allied Council for Japan, an advisory organ to GHQ SCAP, was composed of the United States, Great Britain, the Soviet Union, and China. The task of GHQ SCAP was to carry out the occupation policy by way of the Japanese Government. The Allied GHQ was mainly comprised of the U.S. military, and the SCAP was concurrently the Commander of the U.S. forces in the Far East. In reality, the FEC tended to confirm the U.S. occupation policy. See Annex X. The U.S. prepared for the occupation plan during the War. A Detailed study is: Makoto Iokibe, *Beikoku no Nihon Senryō Seisaku (American Occupation Policy for Japan: Blueprint for postwar Japan)*, 2 vols., Tokyo, 1985. (in Japanese).

[12] *DCAOC*, vol. I, p. 137.

[13] *Ibid.*, pp. 79-81. For the full text Directive No. 3, see Annex XI.

- machine tools;
- radio and electrical equipment;
-automotive vehicles; and
- merchant ships, etc.[14]

Except with the prior approval of the GHQ SCAP, no imports to nor exports from Japan of any goods were permitted. "Directive No. 3" ordered the Japanese Government to submit a "report of all laboratories, research institutes, and similar scientific and technological organizations". It prohibited all "research or development work on effecting mass separation of Uranium 235 from Uranium or effecting mass separation of any other radioactively unstable elements."[15] On November 23, 1945, all cyclotrons were destroyed[16]. The decision by the Far Eastern Commission on January 30, 1950 prohibited to "conduct research in the field of atomic energy, or to develop or use atomic energy."[17]

Based on the Memorandum of the Supreme Commander for the Allied Powers of September 24, all military equipment and munitions were turned over to the U.S. Occupation Forces. They destroyed all equipment that was "essentially or exclusively for use in war or warlike exercises" and that was "not suitable for peacetime civilian use". The U.S. Occupation Forces returned Japanese equipment and supplies to the Japanese Government, which were not essential for war or warlike exercises, including scrap from destroyed implements of war, "after operational requirements of the Occupation Forces had been met."[18] The GHQ also issued three memoranda on the "Destruction of Former Japanese Naval Vessels"[19] and on the "Destruction of Special Purpose Machinery and Equipment."[20]

The Imperial Japanese General Headquarters was abolished on September 13, 1945 by the order of the Supreme Allied Commander[21]. On October 15, the General Staff Office of the Imperial Army was abolished. Finally on November 30, the Imperial Ministry of War and the Imperial Ministry of the Navy ceased to exist.[22] The repatriation of the army and civilians was nearly completed in a few years, except for those who were in the Soviet Union.[23]

The Drafting of the Peace Treaty: From Hard Peace to Soft Peace

On February 10, 1947, the Allied countries had already signed Peace Treaties with Italy and other former Axis states. The process toward the Peace Conference with Japan,

[14] *Ibid.*, p. 81.
[15] *Ibid.*, p. 83.
[16] *Ibid.*, vol. II, p. 10.
[17] *Ibid.*, pp. 231-232.
[18] *Ibid.*, pp. 137-138.
[19] *Ibid.*, pp. 140, 142-143.
[20] *Ibid.*, vol. III, 1949, p. 285.
[21] *Ibid.*, vol. II, p. 131.
[22] Hattori, *op.cit.*, p. 964-965.
[23] See Annex XII.

however, was slow and often came to a standstill. In February 1947, there was still no consensus on the timing of the Peace Conference, nor the substance of the Peace Treaty among the Allies. Well documented studies on the Peace Treaty made clear that there were different views among the various interested parties. Even within one country there were conflicting opinions among ministries. The U.S. State Department, the Pentagon, and influential General MacArthur, for example, were not in agreement, and the same could be said for the U.K. Foreign Office and the U.K. Ministry of Defence.[24]

The whole process became deeply overshadowed by the growing U.S.-Soviet confrontation. The birth of the Communist Government in China in October 1949 changed the balance of power in East Asia and caused fear of a communist take over of Japan. The outbreak of the Korean War in June 1950 and the worsening of the military situation later that year altered the course of the peace process with Japan.

The United States continued to take the initiative on drafting the Peace Treaty, and on convening the Peace Conference. Great Britain prepared for the Peace settlement with Japan by consulting member states of the Commonwealth. The demilitarisation of Japan had been completed at an unexpectedly rapid pace. From 1947, "Cold War thinking" began to exert influence over U.S. occupation policy and its policy vis-à-vis the Peace arrangement with Japan, the main focus of which turned toward keeping Japan within the free world. The United States and Great Britain coordinated their draft treaties, and the U.S.-British draft[25] was the "negotiating" base with Japan.

Faced with the Western collaboration, the Soviet Union played the role of a "Veto Power", but could not exert any influence over the process. The Soviet Union finally refused to sign the San Francisco Peace Treaty[26]. In the meantime, Communist China tried to get a hold on the casting vote, but neither the Peking Government nor the National Government were invited to take part in the Peace Conference. This was a result of a compromise between the United States and Great Britain.[27]

The conditions of the Peace Treaty, namely the demilitarisation or remilitarisation of Japan, was closely linked to its security status after occupation. If Japan was not to be allowed to arm itself, but was to be kept under strict control, then external power(s) or the United Nations would have to provide it with security assurances. Also, the

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[24] The following works make clear the drafting process of the San Francisco Peace Treaty and its historical background, mainly based on the Japanese, U.S., U.K., and Australian archives: Chihiro Hosoya, *San Furanshisuko Kōwa heno Michi (The Road to San Francisco*, Tokyo, 1984; Akio Wanatabe and Seigen Miyasato, eds., *San Furanshisuko Kōwa (The Peace at San Francisco)*, Tokyo, 1986; Takeshi Igarashi, *Tainichi Kōwa to Reisen (The Peace with Japan and the Cold War)*, Tokyo, 1986 (All in Japanese). A detailed bibliography is found in Chapter Eight of the following work: Sadao ASADA, ed., *Japan and the World, 1853 -1952. A Bibliographical Guide to Recent Scholarship in Japanese Foreign Relations*, New York, 1989.

[25] *Foreign Relations of the United States (FRUS)*, 1951, Vol. VI, Part I, Washington, D.C., 1977, 1024-1039.

[26] On October 19, 1956, Japan normalised diplomatic relations with the Soviet Union by a Joint Declaration, but the Peace Treaty between the two countries has not been signed to this day. The ongoing negotiations on the Peace Treaty resumed with the Russian Federation.

[27] On April 28, 1952, Japan signed a Peace Treaty with the National Government. Japan resumed diplomatic relations with the Peking Government on September 29, 1972, and signed a Peace Treaty on August 12, 1978. The other bilateral Peace Treaties were signed as follows: Burma (November 5, 1954); India (June 9, 1952); Indonesia (January 20, 1958).

Pentagon came to attach importance to the strategic value of Japan and wanted to keep bases in Japan.

A U.S.-Japanese security pact would be the most suitable form for this purpose. As a security assurance by the United Nations was premature, the U.S. State Department examined the feasibility of a multilateral security treaty called the "Pacific Pact". Both the United Kingdom and Japan were considering separately the possibility of a bilateral U.S.-Japan security pact. Although Japan was very reluctant to re-arm, the United States and Great Britain no longer pursued the further demilitarisation of Japan.

Australia and New Zealand, which had insisted on the demilitarisation and strict control regime on Japan, were persuaded to soften their views by the United States and Great Britain. The compromise was a tripartite security pact with the United States called the ANZUS Treaty. Hereafter, this chapter depicts the drafting process, especially focusing on the demilitarisation and control regime issue.

The Shadow of the Cold War

In the early stage, the conditions of peace were very severe. On June 21, 1946, the State Department submitted a "Draft Treaty on the Disarmament and Demilitarization of Japan" to Great Britain, the Soviet Union and China. The text was the same as the Four Power Draft Treaty of disarmament and demilitarization of Germany. Examining this Treaty, the Foreign Ministry of Japan pointed out the problem as follows: as Japan is not a party of this Treaty, Japan is to "give a blank check," which limits her sovereignty, to the four powers. This paper suggested that Japan should be a party of the Treaty to secure her national interests.[28]

Facing the confrontation with the Soviet Union, the United States sought to prevent Japan from entering into the sphere of Soviet influence. In October 1948 the United States government adopted "NSC 13/2," namely "Report by the National Security Council on Recommendations With Respect to the United States Policy Toward Japan."[29] This document was supposed to be based on George Kennan's explanatory note of March 25, 1948.[30] After designing the Marshall Plan, the Director of the Policy Planning Staff of the State Department, and the "architect" of U.S. policy toward the Soviet Union, Kennan seemed to take leadership on the policy toward Japan until the inauguration of the office of Secretary of State, Dean Acheson, the following year.[31]

As the backbone of the U.S. policy toward Japan, NSC 13/2 defined the nature of the Peace Treaty "as brief, as general, and as nonpunitive as possible." However, this document was not in favour of "early peace" for the following reasons: "In view of the

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[28] Foreign Ministry Archives of Japan (FMAJ), B' .0001. B' .0008. The U.S. early draft can be found in *FRUS*, 1946, Vol. VIII, Washington, D.C., pp. 153-155. See also Kumao Nisimura, *San Furanshisuko Kōwa Jōyaku (The San Francisco Peace Treaty)*, Tokyo, 1971, pp. 10-12. (in Japanese). Nisimura was Director of the Treaty Bureau of the Japanese Foreign Ministry and prepared for and participated in the U.S. Japanese consultations. He depicted the process based on his memoranda and related diplomatic documents.

[29] *FRUS*, 1948, vol.VI, Washington D.C., pp. 858-862.

[30] *Ibid.*, pp. 712-719.

[31] Hosoya, *op.cit.*, pp. 50-51.

differences which have developed among the interested countries regarding the procedure and substance of the Japanese Peace Treaty and in view of the serious international situation created by the Soviet Union's policy of aggressive Communist expansion, this Government should not press for a treaty of peace at this time."

The Japanese Police Force was considered to be "strengthened by the re-enforcing and re-equipping of the present forces..." With respect to the occupation policy, the focus was moved from demilitarisation and democratisation to economic reconstruction. The SCAP was to be advised "not to press upon the Japanese Government any further reform legislation" and to "relax pressure...on the Japanese Government in connection with reforms."[32]

Prospect for Early Peace

The year 1949 marked a relative stabilisation in Western Europe. In April, the North Atlantic Treaty Organisation was established. Secretary of State Acheson then started to settle the Peace with Japan. He decided to realise "early peace" with Japan, which General MacArthur had already pushed for in 1947. In early September 1950, the Joint Chief of Staff, who had been against "early peace" for military reasons, agreed upon a compromise with the State Department.[33] President Truman endorsed this document(NSC 60/1), and preliminary negotiations for the Peace Treaty proceeded. On September 11, the State Department formulated the draft treaty[34], and prepared for a "Seven Point Memorandum" on the Peace Treaty[35] in line with NSC 60/1.

These documents provided no control over remilitarisation nor industrial production capability, nor establishment of a supervisory organ. At a press conference on September 14, President Truman disclosed that he had authorised the State Department to begin informal negotiations on the procedure to conclude the Peace Treaty with the participants of the Far Eastern Commission.

In April 1950, John Foster Dulles was nominated as Special Assistant to the Secretary of State, and soon after conducted the negotiations for the peace settlement. The most important phases of the drafting process were the U.S.-British negotiations and the U.S.-Japanese consultations. On September 15,1950, the day following Truman's statement concerning the beginning of the informal negotiations, Dulles outlined the U.S. plan for the Peace Treaty. It contained the following points:

- Non-limitation of the Japanese rearmament and freedom of economy and trade as large as possible;
- Promotion of the Japanese participation in the United Nations and the anti-Communist bloc; and
- Obtaining Japanese permission for the U.S. forces stationing in order to protect Japan.

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[32] *FRUS*, 1948, vol.VI, pp. 858-862.

[33] Hosoya, *op. cit.*, p. 73.

[34] *FRUS*, 1950, Vol. VI, Washington D.C., 1976, pp. 1297-1303.

[35] *Ibid.*, pp. 1293-1296, 1296-1297.

In view of lessons from the Versailles Treaty, the State Department reportedly sought to give a maximum of freedom to the former enemy. The primary aim of the State Department was to reconstruct Japan as a free state with adequate armament. This was in order to avoid the creation of a "power vacuum" in the Far East, which would lead to aggression. Dulles regarded the possibility of the re-emergence of Japanese militarism as very small.[36]

In December 1949, the British Military formalised a document, "Japanese Peace Treaty-Defence Aspects", laying down the guidelines, which marked a departure from a "Hard Peace" agreed on at the Commonwealth Canberra Conference (from August 26 to September 2, 1947). This document permitted Japanese possession of a land force, and enabled it to import armaments and munitions.

The British army was in favour of U.S. forces being stationed in Japan after the end of the occupation, and also a U.S.-Japanese defence pact which would provide U.S. defence of Japanese air and sea. It also launched a review of the limitation policy on Japan's ship-building capacity, and denied the creation of any control agency.[37] Requested by the Foreign Office, the Military prepared a new document which permitted the remilitarisation of both the air force and the navy, except for equipping submarines and strategic bombers.[38]

Having a deep fear of the re-emergence of a militarised Japan, Australia and New Zealand strongly opposed the idea of remilitarisation. In February 1951, even after noticing the firm U.S. will to remilitarise Japan, Australia insisted on inserting provisions into the Peace Treaty. This would limit size and the type of armament such as nuclear, biological and chemical weapons. Australia also submitted a measure on the control regime which would supervise the import of munitions, and proposed the destruction of any ship-building capacity beyond peace time demands.[39] In view of U.S. opposition, Australia pursued a NATO type Pacific Pact which would provide Australia and New Zealand with U.S. security assurance against a remilitarised Japan.

The U.S. State Department examined the possibility of a Pacific Pact with broader participating states, including the Philippines or possibly Indonesia, which aimed at protecting Japan, and affording security assurance for countries fearing the Japanese remilitarisation.[40] Based on experience of the U.S. Senate examination of the North Atlantic Treaty, Dulles himself, doubted the feasibility of a multilateral security pact in the Pacific. His first comment on the pact was as follows: "The Atlantic Pact type of commitment to defend Japan against attack would be regarded as somewhat anomalous by our Allies because Japan, 'an ex—enemy country,' would be obtaining a U.S.

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[36] Nisimura, *op.cit.*, pp. 65-66.

[37] Public Record Office (PRO), S.A.C. (49)19, CSB 134/669. For further details on British policy, see Hosoya, *op. cit.*, Yōichi Kibata, "Tainiti Kōwa to Igirisu no Ajia Seisaku" (The Japanese Peace Settlement and British Policy toward Asia), Watanabe and Miyasato, *op.cit.*, R. Buckley, *Occupation Diplomacy*, Cambridge, 1982.

[38] PRO, J.P. (50)148, FO371/83889.

[39] Hosoya, *op. cit.*, pp. 194-196. Tsutomu Kikuchi, "Osutoraria no Tainichi Kōwa Gaikō" (Australian Diplomacy in the Japanese Peace Settlement), Watanabe and Miyasato, *op. cit.*, pp. 209-212. (in Japanese).

[40] Hosoya, *op. cit.*, 184-187.

commitment by which every one of our friendly Allies is covered." He also mentioned the difficulty caused by having to decide the range of participants.[41] The United Kingdom favoured neither the U.S. nor the Australian plans for the Pacific Pact.[42]

Toward a Soft Peace

On March 23, 1951, the U.S. Draft Peace Treaty consisting of 22 articles was given to the British Embassy in Washington D.C. It was communicated to the Government of Japan four days later. Great Britain formalised its lengthy and legally precise draft Peace Treaty with 40 articles, which seemed to be modelled after the Peace Treaties elaborated during the Paris Peace Conference.[43] Great Britain sent its draft to the United States on April 9, 1951. Neither of the two drafts provided any limitation on Japanese rearmament. From April 25 to May 4, the United States and Great Britain coordinated their drafts and formalised a "Joint United States-United Kingdom Draft" with 26 articles.[44] The two countries discussed the remaining differences from June 3 to 14, 1951.

Having learned the lessons of history, the San Francisco Peace Treaty was not a "dictated" peace but a "consulted" peace. The Foreign Ministry of Japan carefully studied the four Peace Treaties signed in Paris by Italy, Rumania, Bulgaria, and Hungary on February 10, 1947. From fall 1950, after Truman's statement on informal negotiation, Japan accelerated the preparation work for the Peace Treaty. The Foreign Ministry of Japan consolidated their position and drafted a paper on their opinion of the Peace Treaty. This document of January 19, 1951 included several points concerning the conditions of peace:

- Japan welcomes the U.S. Seven Point Memorandum which contains no political nor economic limitation;
- Japan is in a position to conclude a separate security pact and is ready to accept any U.S. military demand;
- Japan has no desire for rearmament. The document also stated that it was worth considering the renunciation or limitation of war and armament in a certain region.[45]

Dulles came to Japan for consultation in late January and mid-April 1951. The first Yosida-Dulles meeting took place on January 29. Dulles asked Prime Minister Yosida how Japan would contribute toward the efforts of strengthening the free world. Yosida knew that it meant a U.S. demand for Japanese rearmament. Yosida replied that Japan was eager to restore independence at that moment, but it was too early to answer the question. He pointed out that rearmament would make an independent Japanese

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[41] *FRUS*, 1950, vol.VI, pp. 1162-1164.

[42] Hosoya, *op. cit.*, pp.189-194, Kibata, *op. cit.*, pp.175-176.

[43] Nisimura, *op. cit.*, p. 124. The final U.K. draft: PRO,FO371/92538.

[44] *FRUS*, 1951, vol.VI, Part I, 1024-1037.

[45] Nisimura, *op. cit.*, pp. 84-85. FMAJ, B'.0009.

economy impossible, and enumerated the problems of rearmament.[46] During the first consultation in January, the Foreign Ministry of Japan revised the above document. This new document was submitted to Dulles and MacArthur on January 30. With respect to the rearmament, this memorandum made clear the Japanese view as cited below:

> "As a question for the immediate present, rearmament is impossible for Japan for the reasons as follows. (a) There are Japanese who advocate rearmament. But their arguments do not appear to be founded on a thorough study of the problem, nor do they necessarily represent the sentiment of the masses. (b) Japan lacks basic resources required for modern armament. The burden of rearmament would immediately crash our national economy and impoverish our people, breeding social unrest, which is exactly what the Communists want...(c) It is a solemn fact that our neighbour nations fear the recurrence of Japanese aggression."[47]

At the January 31 meeting between Yosida and Dulles, the latter reportedly emphasised the following points:

- Although Japanese reluctance is understandable, it is not an excuse for not contributing to the defence of the free world;
- Japan has to overcome it and must contribute something.[48]

In the course of the first consultation, the basic line of the U.S.-Japan security pact was agreed upon. At every stage, Japan was informed of each draft treaty. The Foreign Ministry of Japan carefully studied each draft and requested amendments. This consultation process continued until August 18. As pointed out above, the idea of limiting Japanese rearmament disappeared at an early stage. The San Francisco Peace Treaty was signed by 49 countries on September 8, 1951. The lessons of history and the Cold War enabled this unusual soft peace without a control regime to be drafted. The ANZUS Treaty was signed on September 1, and the signatory ceremony of the U.S.-Japan security pact took place the same day as the Peace Treaty.

From the Non-Control Regime to Unilateral Measures

During the occupation period (on July 8, 1950), General MacArthur ordered the establishment of the National Police Reserve Force and permitted the expansion of the Maritime Safety Agency. After two years, on August 1, the National Safety Agency was established and on October 15, the National Safety Force inaugurated. It developed into the Self Defence Forces, comprising army, air force, and navy. From the viewpoints of a series of Japanese governments, "the Constitution does not inhibit the possession of the minimum level of armed strength necessary to exercise the right of self defence."[49]

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[46] Nisimura, *op. cit.*, pp. 87-88. FMAJ, B'OOO9. The record of this meeting, see *FRUS*, 1951, Vol. VI, pp. 827-830. For the further details on Japanese policy making, see: Watanabe, "Kōwa Mondai to Nihon no Sentaku" (The Peace Treaty Questions and Japan's Options), Watanabe and Miyasato, op. cit., pp. 17-54. (in Japanese).

[47] *FRUS*, 1951, vol. VI, p.834. FMAJ, B'OOO9. The background of this document can be found in Nisimura, *op. cit.*, p. 89.

[48] Nisimura, *op. cit.*, p. 90. See *FRUS*, 1951, vol.VI, p. 839.

[49] Defense Agency, *Defense of Japan*, 1991, Tokyo, p. 54.

In the later stages of the occupation era, GHQ SCAP gradually lifted the restriction of war and war supporting industry.[50]

Although Japan was not subjected to any control regime, it took a series of unilateral arms control measures by itself. Article 9 of the Constitution, which provides the renunciation of war, non-possession of war potential and denial of the right of belligerency, is an unilateral measure. The government made clear that under the Constitution, Japan would not possess aggressive weapons, which are to be used "exclusively for the total destruction of other countries" such as long-range strategic bombers, ICBMs and offensive aircraft carriers.[51]

In December 1967, Prime Minister Stato announced the three non-nuclear principles, which were supported by the Diet resolution. The three principles were (1) non-possessing weapons, (2) not producing them, and (3) not permitting their introduction into Japan. Furthermore, Japan ratified the Nuclear Non Proliferation Treaty in June 1976 as a non-nuclear weapon state.

With regards to the arms production, on August 1, 1953, the Weapons Production Law was promulgated. The objective of this law has been to keep strict control over the production of artillery, guns, artillery shell, ammunition, explosives, means of carrying explosives and their look alike, and parts for all of the above mentioned. Any production and reparation of the above mentioned items must be authorised by the Minister of International Trade and Industry. Japan established the "Three Principles on Arms Export", in April 1967. It prohibits arms exports to the following states:

- Communist bloc countries;
- countries to which the export of arms is prohibited under the United Nations resolutions; and
- countries which are actually involved or likely to become involved in international conflicts.[52]

In February 1976, the Prime Minister Miki announced the "Government Policy Guideline on Arms Export". In this guideline, the government will not promote the export of arms, and it enumerated that the export of arms to areas subject to the "Three Principles on Arms Export" shall be restrained, and equipment related to arms production shall be treated in the same category as arms. The export of military technology shall be treated in accordance with the Guideline.[53]

On the export control regime of weapons of mass destruction, Japan is an active member of the Missile Technology Control Regime (MTCR), the Australian Group, the

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[50] *DCAOC*, vol. IV, pp. 10-17.

[51] *Defense of Japan*, p. 55.

[52] *Ibid.*, p. 65. By the request of the U.S. Government, in January 1983 the Japanese Government agreed to transfer military technologies, including arms to the United States, which is not subject to the "Three Principles on Arms Export," within the framework of the Mutual Defense Assistance Agreement. The technologies are as follows: 1) Ducted rocket engine; 2) Mili-wave ultra-red complex seeker; 3) Closed loop magnet erasing technology; 4) Ceramic engines for combat vehicles; 5) Advanced steel material for vessels and armored vehicles. (*Ibid*).

[53] *Ibid.*

London Guidelines, and so on. Moreover, Japan submitted a draft resolution of the U.N. register system of the transfer of conventional weapons with the twelve countries of the Europen Community. In December 1991, the UN Assembly adopted it.

The defence budget ceiling of less than one percent of the GNP, which did not reflect its strategic environment, was also a unique Japanese unilateral measure up to 1986. In January 1987, the cabinet meeting decided not to apply less than one percent ceiling for the FY 1987. Accordingly from the FY 1987 to 1989, it amounted to 1.004%(1987), 1.013%(1988), and 1.006%(1989). Then it fell to 0.997%(1990), and 0.954%(1991) and since remained at "about one percent".[54]

Living heavily in the legacy of the Pacific War's devastation, Japan has not used force since 1945 under these unique unilateral commitments. Surrounded by military giants and situated in an area of risk and tension, the security umbrella provided by the U.S.-Japan security pact has enabled these unilateral measures. During the Gulf Crisis and the Gulf War, Japan encountered some difficulties being reluctant to deploy forces on the one hand, but acknowledging the necessity of international cooperation on the other. After a lengthy debate, in June 1992, the Japanese Parliament passed a bill which permits the Self Defence Force to participate in the UN peace keeping operations in order to take appropriate responsibility in securing world peace. This does not mark a great departure from the self-imposed arms control regime because of its deeply-rooted antipathy to any military solution.

[54] *Ibid.*, p. 217.

Chapter 7
Armament Limitations of the Vienna State Treaty

Heinz Vetschera

Introduction

The Austrian State Treaty of Vienna was signed on May 15, 1955 by the Republic of Austria and the four Allied Powers (France, the United Kingdom, the USA and the USSR) after almost a decade of occupation of Austria by these powers, and negotiations of nearly the same duration. It is in many respects closely linked to the peace treaties the Allied powers had signed with Italy, Bulgaria, Romania, Hungary and Finland on February, 10, 1947, with regard to its history, and specifically to its armament limitation and other military clauses.

Despite these parallels, however, the Austrian State Treaty for several reasons forms an agreement in itself which has to be considered in its individual role. First, as the name indicates, the Treaty is not a "peace treaty" in the traditional sense, signed between the winning and the loosing belligerent in a war, since Austria had not participated as a belligerent in World War II. Secondly, since Austria was occupied by Germany before the war and her armed forces disbanded by the occupant, there had been no Austrian forces to be "disarmed" by the Allied Powers. The military provisions of the State Treaty were therefore negotiated rather to give a future framework for the armed forces Austria would have established as a consequence of successfully concluding the State Treaty, than to limit existing forces. Thirdly, a "peace treaty" in the traditional sense was intended to initiate the normalisation of the relations between the powers concerned, and to regulate the transition from the state of war to a state of peace. It would therefore be concluded as soon as possible after a war.

The State Treaty, in contrast, was signed ten years after the end of World War II. It stood at the end, rather than at the beginning, of the normalisation of the relations between Austria and the Signatory Powers. Thus, many of the issues it addressed were already overtaken by the time of its signature, most of them in the military field. Many military provisions parallel to the mentioned peace treaties had already been eliminated before the final version of the Treaty was signed in 1955, including all quantitative limitations on the armed forces, all limitations on the arms or related industries as well as all regulations for inspections, etc. Finally, the military clauses which had remained in the final version of the State Treaty would have been virtually irrelevant for Austria's defence capabilities, would it not have been for a home-made misinterpretation of one specific clause which created severe problems both for Austria's defence and foreign policy. Thus, contrary to the original meaning, the armament limitation clauses of the State Treaty had influenced Austria's defence and security policy for more than three decades, until they were finally renounced unilaterally by Austria on November 6, 1990.

The pertinent military clauses of the State Treaty include the following regulations:

- a prohibition of service in the Austrian armed forces of former members of Nazi organisations and certain other categories of persons (Art. 12);

- a prohibition of special weapons (Art. 13);
- regulations for the disposal of war materiel of allied and German Origin (Art. 14);
- regulations for the prevention of German rearmament (Art. 15);
- a prohibition relating to civil aircraft of German or Japanese design (Art. 16).

Other military clauses concern the duration of limitations (Art. 17), regulations for the return of Austrian prisoners of war (Art. 18), and for allied war graves and memorials (Art. 19). Out of these clauses, the only one to gain major relevance for Austria's security policy was article 13. It contains specific armament limitations for certain weapon categories under the heading "Prohibition of Special Weapons".

1. Austria shall not possess, construct or experiment with:
   a) any atomic weapon;
   b) any other major weapon adaptable now or in the future to mass destruction and defined as such by the appropriate organ of the United Nations;
   c) any self-propelled or guided missile or torpedoes, or apparatus connected with their discharge or control;
   d) sea mines;
   e) torpedoes capable of being manned;
   f) submarines or other submersible craft;
   g) motor torpedo boats;
   h) specialised types of assault craft;
   i) guns with a range of more than 30 kilometres;
   j) asphyxiating, vessicant or poisonous materials or biological substances in quantities greater than, or of types other than, are required for legitimate civil purposes, or any apparatus designed to produce, project or spread such materials or substances for war purposes.

2. The Allied and Associated Powers reserve the right to add to this Article prohibitions of any weapons which may be as a result of scientific development.[1]

Whereas most of these limitations were seen as more or less irrelevant for Austria's security policy, it was the prohibition of "self-propelled and guided missiles" which led to lengthy discussions in the Austrian public, but also between Austria and some of the signatory powers. As it had dominated the perception of the armament limitation clauses as well as the attempts to overcome their perceived negative effects on Austria's defence policy, it will also form the main issue to be dealt with in this paper.

Origins of the Armament Limitations[2]

The origins of the armament limitations are intimately bound to the history of the origins of the Austrian State Treaty as such. They are, however, also unmistakably derived from

[1] Section II of the Treaty text.

[2] See R. Hecht, *Die Entstehung des Raketenverbotes in den Friedensverträgen von 1947*, Institute for Strategic Studies, National Defence Academy, Vienna, 1977. See also R. Hecht, "Militärische Bestimmungen in den Friedensverträgen von 1947," *Österreichische Militärische Zeitschrift* (ÖMZ/Austrian Military Journal), vol. XVII, 1979/5, p. 337.

the armament limitations in the peace treaties between the Allied Powers and the Axis powers who were allied with German during World War II.[3] The roots of the negotiations with Austria can be traced back to 1943. On the one hand, the Moscow Foreign Ministers' Conference (October 19, 1943 to November 1, 1943) included a paragraph in which Austria was given responsibility "for the participation in the war on the side of Hitlerite Germany",[4] which *de facto* placed Austria in the group of enemy countries. On the other hand, on November 10, 1943, the Allied Committee for Foreign Affairs commissioned the Allied Committee on the Armistice to develop basic measures for the disarmament of the enemy in the air, land and sea, and for the prevention of secret re-armament.[5]

The drafting of the Austrian State Treaty in its first stages was related to the development of the texts of the Italian Peace Treaty and the peace treaties with Bulgaria, Romania, Hungary and Finland. After the first free elections in Austria in November 1945, the Allies contemplated the conclusion of a treaty with Austria.[6] Initially, the U.S. favoured a "peace treaty". As Austria was, however, not to be regarded as a warring nation,[7] but as a liberated country, a draft was then made for a treaty for the restoration of Austrian independence.[8] The Austrian side finally brought to the debate the term "State Treaty", analogous to the State Treaty of St. Germain.[9] On June 20, 1946 the U.S. representatives circulated the draft of a "Treaty for Reinstatement of an Independent and Democratic Austria".[10] In its military provisions,[11] the draft corresponds to the basic lines envisaged for Italy by the U.S., namely:

> "the maintenance of land and air armaments and fortifications ... restricted to meeting tasks of an international character and local defence of the frontiers. In accordance with the foregoing, Austria is authorised to have armed forces consisting of not more than:
>
> a) A land army, including frontier, anti-aircraft and river flotilla troops, with a total strength of 66,000 personnel;
>
> b) An air force of 77 aircraft, including reserves, with a total personnel strength of 5,360. Aircraft primarily designed as bombers with internal bomb carrying facilities shall be prohibited".[12]

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[3] See the articles on Italy, Hungary, Bulgaria, Romania and Finland in this book.

[4] G. Stourzh, *Kleine Geschichte des österreichischen Staatsvertrages*, Styria, Graz, 1975, p. 15.

[5] *Foreign Relation of the United States*, U.S. GPO, Volume V/1944, p. 48 (following references as FRUS and year).

[6] G. Stourzh, op. cit., p. 20.

[7] This was the general assumption. Nevertheless, as the United Kingdom had officially recognized the "Anschluss" of Austria to Germany in 1938, the British Foreign Office regarded Austria as being at war with the UK and terminated this status as late as 16 September, 1947; See G. Stourzh, *Geschichte des Staatsvertrages 1945-1955*, Styria, Graz/Vienna/Cologne, 1980, p. 11.

[8] *Ibid.*

[9] G. Stourzh, *op. cit.*, p. 21.

[10] Excerpts in G.G. Stourzh, *Geschichte des Staatsvertrages*, pp. 217-218.

[11] Part IV.

[12] Article 2.1.

Article 3 explicitly states that:

> "Austria shall not possess, construct or experiment with any self-propelled or guided missiles or apparatus connected with their discharge, or engage in research or development of nuclear energy for military purposes".[13]

From the U.S. perspective, signing a treaty with Austria had priority because of those clauses in the peace treaties with Hungary and Romania that allowed further stationing of Soviet troops in these countries to secure the communication and supply lines to the Soviet troops in Austria. A simultaneous signing of the treaties would have eliminated the purpose for these provisions and would have ousted the Soviet Union from these countries.[14]

As the question of "displaced persons" in Austria could not be solved between the Western Allies and the Soviet Union, however, the negotiations about Austria were postponed until the end of the year and the other treaties were given priority.[15] When these treaties were ready for signature in December 1946, the Austrian State Treaty - together with the negotiations concerning Germany - was included in the agenda for the following negotiations in January 1947.[16]

The peace treaties were signed in Paris by the representatives of the Allies and the German satellite countries on February 10, 1947.[17] At the same time, twenty-nine meetings took place in London from January 16 until February 25, in order to negotiate the Austrian State Treaty. The initiative in the military field now went to the British delegation, whose proposal from January 14, 1947 during the 19th meeting on February 11, 1947 became the official working paper.[18] It was mostly following the provisions of the Hungarian and the other identical treaties,[19] albeit with several deviations.

- an additional prohibition of other major weapons adoptable to mass destruction and designed as such by the appropriate organ of the United Nations;[20]
- a differentiation between the term "self-propelled or guided missiles" and torpedoes. Whereas in the peace treaties the term "self-propelled or guided missiles" is evidently meant in an inclusive sense and the exceptions were later provided for a required number of torpedoes, the State Treaty text names both the "self-propelled or guided missiles" and the "torpedoes" as prohibited weapons systems without any numerical exception to either; the more specific prohibition of torpedoes capable of being manned would, therefore, be superfluous;

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[13] *Ibid.*, p. 218.

[14] Remark by Dean Acheson, FRUS V/1946, p. 326; quoted in G. Stourzh, *Geschichte*, p. 12, footnote 23.

[15] *Ibid.*, p. 14.

[16] *Ibid.*, p. 15.

[17] The final texts were then agreed at the Meeting of the Foreign Ministers' Council in New York on November 4 - December 12, 1946; see Annex.

[18] CFM (Council of Foreign Ministers), (D) (47) (A) 14; quoted in: M. Rauchensteiner, "Staatsvertrag und bewaffnete Macht," *Österreichische Militärische Zeitschrift*, XVIII, 1980/3, pp. 185-197.

[19] G. Stourzh, *Geschichte*, p. 180.

[20] This provision followed a demand by the Soviet Union; see G. Stourzh, *ibid.*

- the inclusion of mechanisms for "control" (beyond the "launching") of self-propelled and guided missiles;
- a ban on chemical and biological weapons;
- a 30 km limit to the effective range of guns, as does the final version of the Italian Peace Treaty text.

Finally, the text includes a provision reserving the right for the Allied and Associate Powers to add prohibitions of any weapons which may be evolved as a result of scientific development, which followed a British proposal.[21] The qualitative armament limitations are thus neither identical with those in the original English draft of the Italian Treaty, nor those in the final version of the Italian Treaty, nor the other peace treaties and do not permit the notion of the Austrian State Treaty as a mere "copy" of the peace treaties. They are, nonetheless, not so pronounced that they should result in a completely different meaning of the armament limitations, since they essentially tally.

At this phase of the negotiations, the armament limitations played a minor role in comparison to the territorial claims by Yugoslavia and also in part by Czechoslovakia.[22] In addition, the question of German assets in Austria was also a principal bone of contention. Thus, the negotiations on the State Treaty resulted in an agreement on just fourteen out of fifty-nine proposed articles.[23] Among the articles adopted were foremost the provisions that could be taken directly from the peace treaties with the German satellites,[24] including also some of the military clauses. The draft treaty in the April 27, 1947 version,[25] allows to conclude that neither the qualitative nor the quantitative armament limitations foreseen at that point (53.000 men, 90 aircraft, including 70 fighter planes and no bombers) have apparently led to any controversy.

The Final Text

The outbreak of the Cold War in 1948, however, stalled further negotiations on the Austrian State Treaty. Some progress was made with the military clauses when France on April 1, 1949, withdrew her proposal for annexes in the 1947 draft[26] limiting *inter alia* nuclear research, research in the field of guidance electronics, research in certain areas of physics and chemistry, and in the development of jet turbines and rocket propulsion for

[21] CFM (D) (47) (A) 87, quoted in G. Stourzh, *ibid.*

[22] G. Stourzh, *ibid.*, pp. 31-33.

[23] G. Stourzh, *Kleine Geschichte*, p. 54. Stourzh gives the date of 1946 here, but it is evidently a mistake, for other references point to the correct year of 1947.

[24] *Ibid*, G. Stourzh even speaks of "could be accepted without change ("... ohne Veränderung übernommen werden können").

[25] Quoted in G. Stourzh, *Geschichte*, pp. 243-316; the armament limitations are found at pp. 254-263.

[26] See G. Stourzh, *op. cit.*, pp. 306-309.

aircraft, as well as in the production of the Austrian steel industry.[27] As these proposals had not been supported by the British and the American side, and as the Soviet Union on October 6, 1949 withdrew her support for these proposals, the said annexes were then eliminated.[28]

New chances emerged only with a reorientation of Soviet foreign policy after 1953. At the Berlin Conference in 1954, the Soviet Union proposed a clause to the State Treaty prohibiting Austria to join military alliances. Both the Western powers and Austria rejected the idea of imposed neutralisation. However, in early 1955, Austria offered to unilaterally declare permanent neutrality in exchange for the Soviet Union's consent to the State Treaty. The "package deal" was sealed in Moscow on April 15, 1955 ("Moscow Memorandum"). In the last stage before signing the Treaty, further arms limitations clauses were eliminated, including quantitative restrictions.[29]

When the State Treaty was finally signed in Vienna between Austria and the four Allied Powers on May 15, 1955, its final text included, therefore, only the military clauses of a general nature, and the qualitative armament limitations. This meant the almost complete elimination of the limitations that would have been of primary concern to the self-defensive capability of Austria[30] from a military point of view. The remaining provisions, mainly regarding naval armament,[31] have in most respects been seen as practically irrelevant for the purposes of Austrian self-defence capability.

The general understanding at that time was that the remaining armament limitations should prevent the dependence of Austria on Germany in military matters, and any offensive capabilities. This fact derives clearly from the statements made in some states concerned during the ratification debates. For example, in France, R. Schuman, in his capacity as the Representative of the President and the Foreign Minister, at the ratification debate of the Austrian State Treaty before the Assembly of the Republic[32] declared: "The individual arms limitations that remain in the treaty are directed first against a possible

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[27] The annexes included *inter alia* prohibitions of the production of armour steel (annex III, paragraph I); against aerodynamic research beyond Mach 0.9, that is in supersonic speeds (annex III, par. II); against "mathematical machines with the special characteristic of being able to be built into prohibited apparatures or armaments ..." (re-translated by the author from G. Stourzh, *op. cit.*, p. 307; annex III, paragraph III); against hydrogene peroxyde production of a higher concentration of 41% (which may be used as an oxident source for rockets; annex IV, paragraph I); research in the area of high-frequency waves, infra-red and ultra-violet radiation beyond basic university research (annex IV, paragraph II), production and use of heavy water and of radioactive materials beyond medical and university requirements (annex IV, par. III), etc.; G. Stourzh, *ibid.*

[28] G. Stourzh, *Ibid.*, p. 306.

[29] Whereas Austria concentrated her efforts to eliminate the numerical limitations in Article 17 of the first draft, the Western powers proposed also to eliminate the prohibitions on military training outside the armed forces (art. 19 of the 1947 draft) and the prohibition of excessive war material (Art. 25 of the 1947 draft). Despite initial Soviet resistance, these provisions were finally eliminated on May 5, 1955; see M. Rauschensteiner, "Staatsvertrag und bewaffnete Macht", *op. cit.*, p. 194.

[30] Especially with regards to quantitative limitations; the provision of Annexes III - IV would not have directly affected Austria's defence capability, but its capability to compete industrially.

[31] Torpedoes and the letters d through h of Article 13 of the final version.

[32] The Lower Chamber of the French Assembly in the Fourth Republic.

Austrian-German cooperation and second against the procurement or possession of weapons of mass destruction".[33]

The basic argument for arms limitations manifests itself here in the broad sense with regard to the prevention of German rearmament, and in the narrow sense towards the goal of preventing any offensive capability, especially of weapons of mass destruction. The same line of argument is followed by the respective statement regarding the Austrian State Treaty in the report of the Committee on Foreign Relations of the U.S. Congress: "Austria should not develop military forces that might be considered a danger to its neighbours."[34] The prevention of an offensive capability as a goal of the arms limitations provision is also stated here as a primary goal.

On the Austrian side, too, it can be determined from the parliamentary debate on the State Treaty that the armament limitations were not understood as essentially limiting Austria's military capabilities. The explanatory statements on the draft of the State Treaty[35] and the Military Service Act[36] referred to the arms limitations only with regard to Austria's military sovereignty. Some critical remarks in the report of the main committee of the parliament, regarding ratification of the State Treaty, were directed against the range limitation on guns because "guns ... with a 30 km range are useless if the aggressor possesses some with a 100 km range".[37] Nevertheless, the report came to the conclusion that these provisions "do not present an essential limitation of our sovereignty".[38]

The "Rocket Ban" becomes a Problem

In the following years, too, no problems were apparently seen in the arms limitations of the State Treaty. This is true not only for the apparently irrelevant provisions, as for example the prohibition against submarines or other submersible craft, but also for the

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[33] W. Dohr, "Neutralität und Rüstungsbeschränkung," *Österreichische Militärische Zeitschrift*, vol. X, 1972/3, p. 153. He quotes the original text from: *Journal Officiel de la République Française; Débats parlementaires*, Conseil de la République (1955), p. 1.874 - 1.875; the translation is Dohr's.

[34] *The Austrian State Treaty*, Report of the Committee on Foreign Relations on Executive G, 84th Congress, 1st Session, Washington, D.C., quoted by *Dohr*, p. 155.

[35] *Stenographisches Protokoll*, VIII. G. B. 517. der Beilagen, p. 85 - 88; in CSAKY E. M., *Der Weg zu Freiheit und Neutralität; Dokumentation zur österreichischen Aussenpolitik* ("The Path to Austrian Freedom and Neutrality", Documentation on Austrian Foreign Policy); Series of the Austrian Society for Foreign Policy and International Relations, vol. 10, Vienna (1980), pp. 412-416; it pays attention solely to those armament limitations that were excluded from the final version of the Austrian State Treaty.

[36] VII. G. B. 604 der Beilagen, p. 13 begins: "Military sovereignty is granted to Austria in all important matters, individual limitation provisions that are provisionally contained in the State Treaty are hardly of any consequence".

[37] VII. G. B., 519. der Beilagen in CSAKY, E. M. p. 425f; This judgement ignores, however, the fact that ranges of 100 kilometers were irrelevant at this point; the time of the long-range artillery ended with WW II. How much more important then - when carefully examined - the elimination by the signatory states of the originally foreseen prohibition of bombers, which were the offensive weapon par excellence at the time.

[38] Report, *op. cit.*, p. 426.

provision against "self-propelled or guided missiles". For example, Austria acquired a complete battalion of rocket projectors from Czechoslovakia in 1959.[39] Then, in the early 1960s, Austria openly tested Swiss "Moskito" and other anti-tank guided weapons.[40] In both cases, the signatory powers did not react. Neither did the testing and the presentation of a Swiss multiple rocket launcher on the chassis of an Austrian Saurer APC during the Ringstrasse parade as late as 1965[41] cause any reactions on the side of the signatory powers.

It was only in the early 1960's that the broad interpretation of the provision against "self-propelled or guided missiles" towards a general "rocket ban" emerged which was to determine the debate on the armament limitations for the next 25 years. It was triggered by Finland's 1963 agreement with the signatory powers of the Peace Treaty of 1947 that the purchase of guided weapons for coastal and air defence would not contradict the clause against "self-propelled and guided missiles" in the Peace Treaty.[42]

In Austria, this was perceived as a successful re-negotiation of the armament limitations of the Finnish Peace Treaty which should be imitated by Austria, too. This view was not commonly shared, as it derives from a textual comparison of various defence journals. On the one hand, the still impartial accounts of the testing of the "Moskito" are reported,[43] on the other, one finds suggestions that a "reinterpretation" of the armament limitations of the State Treaty should be attempted, following Finland's example.[44] Thus, an uncritical reinterpretation of the arms limitations towards a more general "rocket ban" set in. It must be stated, however, that this reinterpretation originated exclusively within Austria and must be regarded as "home grown".[45]

Attempts to Solve the "Rocket Ban"

Attempts to solve the question were closely related to the different periods in Austria's security policy, determined by the different governments and their policy priorities. The

[39] Compare to the time table in: H. Magenheimer, *Das österreichische Bundesheer* 1955-1975 (The Austrian Army 1955-1975), *Österreichische Militärische Zeitschrift*, vol. XIII, 1975/3, p. 193.

[40] Compare to the report in *Truppendienst* (Austrian Training Journal for the Armed Forces), 6/1963, pp. 451-454.

[41] Compare to Report in *Österreichische Militärische Zeitschrift*, vol. III, 1965/3, p. 203.

[42] In 1963, Finland reached an understanding with Great Britain and the Soviet Union that the procurement of defensive guided weapons (for anti-tank and anti-air missions as well as coastal defence) did not run contrary to the prohibition provisions of the Peace Treaty. See Pauli JÄRVENPPÄÄ's contribution in this book, and also the information brochure of the Finnish Ministry of National Defence, Helsinki 1978, p. 10. This action can be either regarded as a revision, a re-interpretation or a confirmation of the contents of the original provision, pending on the understanding of its original meaning.

[43] *Truppendienst*, 6/1963.

[44] *Österreichische Militärische Zeitschrift*, vol. III, 1965/2, p. 108.

[45] This may have a simple explanation: All manuals of the Austrian Constitutional Law that also include the State Treaty, limit themselves to the text of the Treaty without the Annexes. If one were restrained to the literal meaning of Article 13, part 1, letter c, there is actually no other interpretation evident except an undifferentiated "rocket ban". The contextual meaning of this limitation was common knowledge to those who knew precisely what its original intention was. This knowledge passed on with them. The time of the emerging of the Austrian misinterpretation further indicates to this idea.

first period was characterised by the domination of the conservative People's Party, emphasising the idea of "armed neutrality" according to the Swiss model (1955 - 1970).

The second period was characterised by absolute majority of the Socialist Party under Federal Chancellor Bruno Kreisky who developed a concept of "active neutrality", emphasising foreign policy over defence (1970 - 1983). The third period came when the Socialist Party lost its majority and had to enter coalitions with the Liberal Party (1983 - 1987) and the People's Party (1987 until now), both of which tried to balance defence and foreign policy as equally important instruments of security policy.[46]

The Years of Unsuccessful Attempts (1964 - 1970)

The perception of the pertinent clause of the State Treaty as seriously limiting Austria's defence capabilities led to several attempts to solve the issue by renegotiating the State Treaty with the other Signatory Powers, especially under the conservative Federal Minister of Defence Georg Prader (1964-1970). Whereas the Western powers apparently did not object to the idea of eliminating the pertinent clause of the Treaty, the Soviet Union persistently reacted negatively to these attempts. The sources in this regard do not allow an unequivocal statement, because the requests have not been documented in official notes, but for the most part were secretly negotiated with the Soviets. Nevertheless, wishes to change the treaty provisions were hinted at by the Austrian side in several instances.[47]

It can be concluded, however, that the Soviet negative replies rather referred to the Austrian desire to change the text of the Treaty or to achieve an official reinterpretation. Their denial is totally in agreement with a strictly legalistic Russian juridical tradition of regarding the original text of the Treaty as quasi-sacrosant.[48] On the other hand, the Soviet Union raised apparently no protest whatsoever when Austria had acquired or experimented with guided and unguided weapons systems which would have been "banned" according to the Austrian interpretation of Article 13, paragraph 1, letter c. Here, the absence of a protest was inconsistent if the Soviet Union would have shared the Austrian interpretation of an indiscriminate ban on any sort of guided weapons. It leads, on the contrary, to the conclusion that the Soviet objections had referred exclusively to the

[46] For more details, see H. Vetschera: "Austria", in R. Bissell, and C. Gasteyger (eds.), *The Missing Link - Europe's Neutrals*, Duke University Press, Durham and London (1990), pp. 59-77.

[47] Especially on the occasion of the visits of Austrian politicians to the USSR; compare to the review in: W. Dohr, p. 154. Also, Kurier, January 8, 1977, p. 2 enumerates attempts by State Secretary Stephani in 1958, by Defence Minister Prader in 1964 and 1966, Federal Chancellor Klaus in 1966, and Foreign Minister Kirchschläger in 1971. Federal Chancellor Bruno Kreisky in 1977 during the "Lütgendorf-debate" (see below) indicated that he himself had, unsuccessfully, attempted to renegotiate these State Treaty provisions when he was Minister for Foreign Affairs (1959-1966) and Federal Chancellor (from 1970 onwards), *Salzburger Nachrichten*, January 8, 1977, p. 4.

[48] In addition, one must consider that the Soviet side in principle did not wish to make any changes in the Austrian State Treaty in order not to set a precedent, especially with regard to the most sensitive provisions such as the prohibition of uniting with Germany (Art. 4).

Austrian wish (unnecessary and only caused by the misinterpretation of Article 13) to change or reinterpret the text of the State Treaty, and not to the procurement of guided weapons as such.

The Soviet position appears also in conformity with statements which had been made in conjunction with the origins of the arms limitations. At the London Conference of Foreign Ministers, the Soviet Foreign Minister Molotov declared that he was against armament limitations that would deny small states the possibility of self-defence;[49] furthermore, the Soviet Union proposed the inclusion of "rockets used in World War II as weapons with mass destructive effects" during the UN debate on the definition of weapons of mass destruction.

Thus, the original Soviet view of the purpose of the arms limitations apparently came close to the original American objective: "Elimination of offensive capability - maintenance of self-defence capabilities". However, the repeated Austrian wish during the mid- and late 1960s to change the pertinent provisions of the State Treaty increasingly made the issue a foreign policy problem between Austria and the USSR. For the USSR, as well as for a portion of the Austrian Left, any idea of acquiring any sort of missiles became identical to the wish to change the State Treaty, or to act against its spirit. This coincided with the 1970 election campaign in which the Socialist Party capitalised on a decline in the popularity of the military and won the election with the promise to cut military service.[50]

The Years of Ordered Silence (1970 - 1976)

The 1970 elections brought a distinct shift in Austria's foreign and security policy, as they led to absolute socialist majority for the next thirteen years under Chancellor Bruno Kreisky. Conforming to a longstanding aversion against the military on the Socialist side because of the Austrian Civil War of 1934, priority was given to foreign policy over military defence in security policy. Therefore, the question whether the Austrian armed forces should be equipped with anti-tank missiles was, as a rule, dismissed by the government as burdening foreign relations, especially with the Soviet Union. The issue was thus pushed to the back-burner which led to wide-spread resignation within the security policy community that the Austrian armed forces would ever achieve adequate defence capabilities. The question on how to solve the "missile gap" thus shifted from the political to the academic level.

The Years of Struggle (1976 - 1983)

A major research project was initiated in 1976 with the Institute for Strategic Research at the National Defence Academy by General Wilhelm Kuntner who had become Commandant of the Academy in 1975.

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[49] *FRUS* II/1945, at p. 269ff; quoted in R. Hecht, *Militärische Bestimmungen, op. cit.*, pp. 380-385ff.

[50] For detail see H. Vetschera: Austria, *op. cit.*, p. 64.

The idea was to thoroughly analyse the State Treaty and its armament limitations both in their historical and their legal context.[51] When the major results of historical analysis were available, they were brought to the attention of the then Defence Minister Karl Lütgendorf, who himself was a professional officer. In January 1977, he referred to the problems associated with the armament clauses of the State Treaty in an interview with a German newspaper, calling them "outdated".[52]

This statement triggered outraged responses by the Soviet and Yugoslav media.[53] The statement was also criticised by Chancellor Kreisky who argued that one should not alienate the Soviet side and excluded to re-negotiate these provisions in the UN Security Council.[54] Furthermore, he explicitly referred to the idea that any such step would have reduced the chances a year earlier for the re-election as UN Secretary General of Kurt Waldheim, "whom the Soviets have supported in the most loyal way".[55] There would be no attempts on the Austrian side to change the State Treaty.

Kreisky's criticism of the Defence Minister was supported by the then Foreign Minister Pahr who declared that this question was "not the Defence Minister's business".[56] Whereas the debate was then declared as "finished" in Austria by the Chancellor, the Soviet press in March 1977 used a commentary on military exercises in Austria to bash the Austrian military and the Defence Minister for allegedly attempting to break the State Treaty.[57] Lütgendorf soon afterwards had to resign because of illegal arms exports to Syria. However, there were also allegations that he may have planned to initiate a co-production agreement of arms with Syria, including rocket systems.[58]

In the same year, there were attacks by the communist press and two Soviet journalists against the then commander of the Salzburg military region who in a private conversation with some journalists had argued that some anti-tank or anti-aircraft weapons would not provoke the resistance of any signatory power.[59] The pattern was thus continued.

The State Treaty again became an issue in 1979 when the defence spokesman of the Conservative People's Party, Felix Ermacora, proposed some changes in the Austrian

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[51] For example, the study by Rudolf Hecht quoted in this paper is the published version of the historical part of these analyses. The legal analysis led to the study in 1985 (H. Vetschera, *Die Rüstungsbeschränkungen des österreichischen Staatsvertrages*; see below) which then formed the basis to overcome the limitations. Also, the present study in many elements builds upon this research.

[52] For a detailed report see *Die Presse*, 7 January, 1977, p. 1.

[53] Criticism came from Tass and the Yugoslav daily Borba which combined their attacks with alleged deviations form Austria's policy of neutrality. Yugoslavia was especially sensitive because of the deteriorated relations with Austria due to the Slovene minority in Carinthia, whose protection has also been enshrined in the State Treaty. On the reactions see *Salzburger Nachrichten*, 8 January 1977, p. 4.

[54] A possibility provided in Art. 17 of the State Treaty.

[55] *Die Presse*, 7 January 1977, p. 1.

[56] *Austria Presse Agentur* (apa), 12 January 1977; it is worth noting, however, that Pahr himself in 1967 - before becoming Foreign Minister - had demanded a revision of the State Treaty, see *Kleine Zeitung*, 15 January 1977, p. 3.

[57] *Sovyetska Rossiya*, 3 March 1977.

[58] *Neues Volksblatt*, 4 April 1977.

[59] See the reference in *Salzburger Volksblatt*, 20 November 1977, p. 13. Again, the Soviets stressed that "Austria were better protected by its neutrality than by the military", a position also sometimes shared by the subsequent Kreisky governments.

defence system and *inter alia* demanded to procure guided anti-tank weapons. This was in his opinion possible without changing the State Treaty.[60] He held the view that the Kreisky government's arguments to oppose these weapons on the grounds of the the State Treaty were "phony excuses".[61] He was immediately attacked by the communist daily "Volksstimme".[62] The defence spokesman of the governing Socialist Party was, however, flexible, declaring only that the State Treaty should remain out of question. In his view, there had been efforts to find a differentiated interpretation, but not yet any results.[63] On the other hand, the then Chairman of the Peoples Party, Alois Mock distanced himself from the idea of the defence spokesman and argued the he had always refrained from tackling the missile issue because of foreign policy considerations.[64]

Some weeks later, the Socialist Defence Minister Otto Rösch in an interview stated that the "rocket clause" in the State Treaty would complicate the tasks of defence, but not in a decisive way. It were close to impossible to achieve the elimination of this clause in negotiations with the signatory powers.[65] Nevertheless, by the end of 1979, there were speculations that Rösch during a visit to the Soviet Union, might have had the opportunity to re-negotiate the said clause with the Soviet side.[66] One argument was that Austria's support for Cuba's candidacy in the UN Security Council would have reduced the Soviets' resistance.[67] After his return the Minister reported that there had been "no absolute 'no' any more, but no positive decision either in this case".[68]

All these speculations became, however, obsolete within few days with the Soviet invasion into Afghanistan and the sudden illness of Marshall Tito in Yugoslavia, leading to a sharp decline in East-West-relations and to widespread speculations about a rapidly deteriorating security situation on Austria's southern border. Defence spokesman Ermacora demanded increased efforts on the Austrian side and explicitly mentioned the negative effects of the State Treaty's "rocket clause". Should the government prove unable to solve this issue, the National Defence Council[69] should take up the cause. Some days later, the Commander of the National Defence Academy, General Wilhelm Kuntner, stated that guided anti-tank weapons were not affected by the pertinent clause of the State Treaty which would pertain only to long-range missiles.[70] He was immediately attacked by the Soviet daily *Pravda*[71] but argued that historical evidence would support his views rather than those held by *Pravda*.[72] He denied any idea to attempt to "changing" or

[60] *Wiener Zeitung*, 8 August 1979, p. 2.

[61] *Südost Tagespost*, 8 August 1979, p. 2.

[62] 8 August 1979, p. 1.

[63] "Mondl: Interessanter Vorschlag", *apa*, 8 August 1979.

[64] *apa*, 8. August 1979; *Vorarlberger Nachrichten*, 9 August 1979, at p. 5.

[65] *Die Presse*, 1/2 September 1979, p. 4.

[66] *Kurier*, 22 December 1979, p. 2.

[67] *Neue Zürcher Nachrichten*, 21 December 1979.

[68] *apa*, 14 January 1980.

[69] A specific advisory council for the government on defence issues.

[70] Wiener Zeitung, 20 January 1980, p. 2.

[71] Kurier, 7 February 1980, p. 2.

[72] Wiener Zeitung, 7 February 1980, p. 2.

"reinterpreting" the Treaty, but insisted that a reinterpretation of the pertinent treaty clauses in the treaties with other states had already taken place by those signatory powers which had provided them with the weapon systems in question.[73]

In the following months, the issue was kept alive. The Communists attacked alleged wishes to purchase anti-tank weapons by the military.[74] Defence spokesman Ermacora demanded a discussion on the question of purchasing anti-tank weapons.[75] During the debate of the defence budget in the parliament in November 1980, Minister Rösch, however, explicitly stated that it would make no sense to hope for guided weapons.[76]

Due to the deteriorating East-West climate, the communists increasingly linked the issue to an alleged bias towards NATO in Austria's security policy. *Pravda* again attacked spokesman Ermacora for an alleged wish to purchase "rockets".[77] Some weeks later, the issue was linked to the alleged wish of "certain circles" in Austria and "to the Pentagon's wish to incorporate Austria as a 'non-registered member' in NATO".[78]

The attacks escalated when the Western side began to raise its concern that Austria had weak points in her defence due to the lack of adequate anti-tank weapons.[79] There were immediate responses by the Soviet daily *Izvestiya* on the "American attempts to torpedo Austria's status as a neutral country".[80] Foreign Minister Pahr qualified the issue as "a discussion among newspapers"[81] which he declined to comment upon.[82]

Critical comments at the end of this period, however, made clear that the issue had not been a problem in itself from the outset. They recognised that it had rather been caused by the unnecessary wish of the Austrian side to change the State Treaty, and there had been too many public statements on the subject. The fact that Austria's demands had been increasingly supported by the United States had further made the issue a matter of principle for the Soviet side. Most of all, however, it was realised that Chancellor Kreisky had unnecessarily committed himself "not to allow the State Treaty be mistreated", thereby locking Austria into a position from where she could not extricate herself.[83] The overall mood, however, was doubt that the issue could ever be solved in a positive way.

Years of success (1983 - 1988)

In the 1983 elections, the Socialist Party lost its absolute majority. Chancellor Kreisky resigned, and a coalition government between the Socialist and the Liberal Party

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[73] *Die Presse*, 7 February 1980, p. 2.

[74] *Volksstimme*, 5 July 1980, p. 4.

[75] *Press service of the People's Party*, 30 July 1980.

[76] *Salzburger Nachrichten*, 12 November 1980, p. 1.

[77] *apa*, 10. May 1981.

[78] *Pravda*, 17 June 1981.

[79] "US-Sorgen um Österreichs Heer; Pentagon: Kurzstreckenraketen notwendig", *Die Presse*, 27 August 1982, p. 1.

[80] *apa*, 31 August 1982. Again, the Soviet argumentation linked the State Treaty to Austria's status of neutrality.

[81] Namely the Austrian "Presse" and the Soviet "Izvestiya".

[82] *Die Presse*, 6 September 1982, p. 1.

[83] *Die Presse*, 6 September 1982, p. 3.

was formed. As a result, security policy shifted towards a balance between defence and foreign policy, and new efforts were undertaken to close the gaps in Austria's defence capabilities.[84] When Friedhelm Frischenschlager from the Liberal Party was appointed as Defence Minister, he gave priority to the solution of the "missile gap", as this had been a security policy objective of the Liberal Party for some years.

On the other hand, it had to be considered that the socialist partner in the coalition had himself clearly committed to the Kreisky line, and that Foreign Minister Lanc was a determined representative of the Socialist Party's Left wing. In addition, this was during the period, when protest movements emerged against the INF deployment, due to NATO's double track decision of December 1979. The Austrian Left joined this protest, too, but only in an abstract way, as there were no INF missiles to be deployed in neutral Austria. Thus, the struggle against the domestic deployment of "missiles" became some sort of "surrogate motivation" for the Austrian protest movement.

The approach on the side of the Ministry of Defence was thus a twofold one to overcome both domestic and foreign resistance against any steps to acquire guided anti-tank and anti-aircraft weapons. Efforts in the Ministry of Defence could build upon the results of research at the National Defence Academy in the late 1970s and early 1980s.

There, the breakthrough in the line of argumentation had been found in the early 1980s with the main idea to search for a solution, allowing the acquisition of guided weapons systems within the framework of the State Treaty rather than to aim for a change in the State Treaty regime, either by re-negotiating or re-interpreting it. The burden of proof should have now been put upon the shoulders of those denying Austria access to guided weapons rather than on those demanding the said weapon systems. Therefore, the argumentation had to claim to "return to the original meaning of the State Treaty" rather than to "give it a different meaning" from the original scope.

The new approach, it was assumed, could outflank any resistance, especially on the Soviet side, which appeared over-sensitive vis-à-vis any scratching on the State Treaty, but also on the domestic side where there had been clear and determined statements linking it to Austria's foreign policy profile. By doing so, it was assumed that the acquisition of guided weapons could be decoupled from being almost inevitably identified with the idea of changing the State Treaty.

Preparations based upon these analyses were initiated quietly. One step included to eliminate any references to the prohibition clause in relevant publications. Until its 1983–1984 issue, the Military Balance in its paragraph on Austria within the introductory notes on Other European Countries contained a reference that "The State Treaty of 1955, which re-established Austrian independence, prohibits Austria from acquiring 'nuclear weapons, long-range artillery, chemical and biological weapons, self propelled missiles, submarines, assault craft, manned torpedoes and sea mines'. Austria's constitution contains a declaration of permanent neutrality." By discreet contacts to the editors, the

[84] For example, a long overdue decision was finally taken to modernize Austria's Air Force by acquiring supersonic interceptors.

reference to the State Treaty's prohibition clauses has been eliminated since the 1984–1985 edition, and only the declaration of neutrality is mentioned.[85]

The analyses were also used to prepare for further steps within Austria, but were most probably leaked to the public.

In early August 1984, the *Washington Post* published a rather confused article[86] indicating that Austria would revise the "missile clause" in the State Treaty and purchase missiles in the Soviet Union. The government reacted immediately. Foreign Minister Lanc demanded an end to be put to "unreasonable statements" concerning the State Treaty.[87] Defence Minister Frischenschlager denied that Austria would plan any action deviating from the provisions of the State Treaty. He asserted, however, that Austria was free to choose her partners from whom to purchase weapons, and that much had changed since the State Treaty had been signed.[88]

There were immediate attacks from the Left. The Communist daily *Volksstimme* criticised the Defence Minister while positively reporting the Foreign Minister's remarks.[89] The socialist daily *Arbeiter Zeitung* criticised "certain missile enthusiasts" in the Ministry of Defence.[90] In this article, the line of argumentation followed by the Ministry of Defence is correctly reported, but with a clearly negative attitude. In the triumphant conclusion, the article states that despite a potentially correct legal interpretation, the "missile enthusiasts" in the Ministry of Defence had already lost on the political level because "Foreign Minister Lanc has explicitly stated that missiles for Austria's defence are out of debate".

In September 1984, Defence Minister Frischenschlager stated during a seminar of defence experts from the European neutral states that the acquisition of defensive guided missiles were a necessity and would not require a change in the State Treaty. He said that "it must be avoided to give the impression that Austria would want to change the State Treaty". This drew some criticism by the Federal Chancellor Sinowatz who argued that "the State Treaty must be left out of debate".[91] However, the defence minister also argued that a domestic consensus should be found before the issue could be followed on the foreign policy level.[92]

This became easier with a major change in the cabinet in September 1984. Together with other representatives of the Left wing, Foreign Minister Lanc had to resign and was

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[85] See The International Institute for Strategic Studies, *The Military Balance, 1983-1984*, p. 43; and *The Military Balance, 1984-1985*, p. 45. From the 1987-1988 edition onwards, no explicit reference has been made on the status of Austria any more.

[86] The article implied that Austria's State Treaty would also contain provisions on her neutrality. It was called a "neutrality pact", and was linked it to the allegation that Austria wanted to purchase Soviet missiles.

[87] *apa*, 2 August 1984.

[88] *apa*, 2 August 1984; see also: *Wiener Zeitung*, 3 August 1984, p. 2.

[89] *Volksstimme*, 3 August 1984, p. 2.

[90] *Arbeiter Zeitung*, 3 August 1984, p. 5.

[91] *apa*, 11 September 1984.

[92] *Die Presse*, 12 September 1984, p. 1.

replaced by the more pragmatic Leopold Gratz, who showed certain understanding for the Defence Minister's demand for adequate anti-tank weapons.[93] In the following months, the results of the legal studies at the National Defence Academy were published as a "trial balloon" in an unofficial social science series, edited by the then head of the bureau of the Federal Minister of Defence.[94]

Soon after the publication of the study, the defence spokesmen of the three parties of the Austrian Parliament achieved consensus that guided anti-tank weapons were a necessity for Austria's defence.[95] Although they still differed in their opinion on how to proceed in the acquisition, they agreed that these weapons were not to be regarded - and therefore also not prohibited - as "Special Weapons" in the terminology of the State Treaty. It was, however, the first time that a socialist representative had officially taken this position, which immediately caused criticism of the Socialist Youth Organisation.[96] It demanded the resignation of its defence spokesman.[97]

When the People's Party at a party congress in July 1985 demanded to acquire guided anti-tank weapons, it drew immediate criticism from the Left wing of the Socialist Party and the Greens.[98] More specifically, a leftist socialist deputy again used the argument that the People's Party would "attempt to subvert the State Treaty.[99]

An even more pronounced attack came by former Foreign Minister Lanc.[100] He not only incorrectly argued that the State Treaty would not prohibit "rockets" but only guided weapons,[101] but also resumed the old Kreisky argument that weapons were not required at all, as foreign policy was the best protection for Austria. In a similar attack, another socialist politician denied that their defence spokesman would have agreed to anti-tank missiles[102] and stated that "the party would neither accept a change in the State Treaty, nor missiles".[103]

Thus, the debate increasingly shifted to a debate within the Socialist Party. During a military exercise in Lower Austria, the socialist defence spokesman declared that one could not evade the discussion about the requirement of "defensive weapons"[104], whereas at the same time a prominent socialist deputy in the Parliament declared his fierce opposition "against any attempts to provide rockets for the Federal Army".[105] The

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[93] *Die Presse*, 17 September 1984, p. 1.

[94] Heinz Vetschera, "Die Rüstungsbeschränkungen des österreichischen Staatsvertrages aus rechtlicher, politischer und militärischer Sicht", *Schriftenreihe des Instituts für Politische Grundlagenforschung*, vol. 6, edited by Dr. Erich Reiter; Vienna, 1985.

[95] *apa*, 6 June 1985; *Salzburger Nachrichten*, 7 June 1985.

[96] Traditionally on the left fringe of the political spectrum.

[97] *apa*, 5 June 1985.

[98] *apa*, 7 July 1985.

[99] *Die Presse*, 4 July 1985, p. 4.

[100] *Wiener Zeitung*, 9 July 1985.

[101] Which is wrong, as the State Treaty speaks explicitly of "self-propolled or guided missiles".

[102] Despite the criticism of the said spokesman by the party's youth organization, see above.

[103] *Die Presse*, 6-7 July 1985.

[104] Which had become the *chiffre* for guided weapons at that time.

[105] *Wiener Zeitung*, 19 July 1985, at p. 2.

Communist daily reported with glee about "internal resistance in the Socialist Party against rockets for the army",[106] whereas at the same time the Soviet side used the issue to brandish alleged American attempts to "undermine Austria's State Treaty and neutrality".[107]

The pendulum swung, however, increasingly in favor of a positive solution for the issue. The leader of the socialist majority in the parliament cautiously signalled support to discuss the issue instead of permanently putting it on the backburner.[108] There was, nevertheless, clear resistance in the socialist party, and in early 1986, the party's theoretical journal published an article by a professor of international law that clearly intended to deny the legal arguments used by the Ministry of Defence.[109] However, it also gave space for a reply by the Ministry of Defence's main author on the subject, who had been attacked in the first article.[110]

Parallel to these domestic debates, the issue also became involved in the tug-of-war between East and West. When the American Ambassador in Vienna supported the attempts of Austria to acquire strictly defensive guided weapons,[111] he provoked steady critisicm on the Soviet's part. On the one hand, it criticised the Austrian defence minister for "openly attacking the State Treaty" when he had demanded to discuss the present interpretation of the Treaty;[112] on the other hand, the official daily *Izvestiya* criticised all American "attempts to interfere into Austria's internal affairs". The American Ambassador had expressed his positive attitude for Austria's attempts to acquire anti-tank weapons and had also supported the argument that the State Treaty was no obstacle for that.[113] When a new Soviet Ambassador was sent to Vienna, he explicitly stressed that "the State Treaty should not be changed" when asked about the "missile clause".[114]

In 1986, Defence Minister Frischenschlager resigned and was succeeded by Helmut Krünes, who, too, pushed ahead the solution of Austria's "missile gap". This again provoked negative commentaries by the Soviet *TASS* news agency.[115] Within a few months, however, the socialist-liberal coalition broke and elections were held in late 1986, leading to the formation of a socialist/conservative coalition government in early 1987 Robert Lichal became Defence Minister. He followed the double strategy of finding a domestic consensus while simultaneously not provoking the signatory powers of the State Treaty.

In June 1987, consensus could be achieved with the Socialist Party that there would be no official opposition against the defence minister's project to purchase anti-tank weapons. This was the same politician on the Socialist side who one year earlier had bluntly stated that the party would neither accept a change of the State Treaty nor any

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[106] *Volksstimme*, 25 July 1985, at p. 5.

[107] *Izvestiya*, 9 August 1985.

[108] *profil*, 31/85, 29 July 1985, pp. 9-10.

[109] M. ROTTER, "Raketen für das Bundesheer?", *Zukunft*, 2/1986, pp. 13-16.

[110] Heinz VETSCHERA, "Landesverteidigungsplan, Lenkwaffen und Staatsvertrag", *Zukunft*, 4/1986, pp. 43-44.

[111] *Die Presse*, 16 April 1986.

[112] *Wiener Zeitung*, 15 June 1986.

[113] *apa*, 2 August 1986; Izvestiya even argued that "Austria's legally enshrined neutrality would not allow the acquisition of the said weapon systems", thus completely distorting the facts.

[114] *Die Presse*, 4 December 1986.

[115] *apa*, 14 June 1986.

missiles, who now agreed that the party would see no violation of the State Treaty in the planed purchase of missiles.[116] Some weeks later, the defence spokesman of the Socialist Party stated that defensive anti-tank missiles were a military necessity and that they should be purchased, but warned at the same time against deliberately playing with the State Treaty.[117]

A confusion arose when the issue was to be debated in the National Defence Council. Whereas the Socialist Party, the People's Party and the Liberal Party agreed to give a green light for the purchase, the Green Party's representative, according to some press reports, also agreed to this step, which was later, however, denied by the leader of the Greens' parliamentarian group.[118]

Opposition to the purchase of anti-tank missiles was thus finally confined to the extreme Left, inlcuding the Communists, parts of the Socialist Youth Organization, and the Greens who used the debate on the defence budget to voice their opposition.[119]

On the foreign policy level, there was still opposition voiced on several instances by the Soviet side, but the line of argumentation changed continuously. On the one hand, it was still argued that the purchase of guided weapons would contradict the State Treaty.[120] On the other hand, the Soviet ambassador in Vienna used the argument that it would not make sense on Austria's side to increase her armaments while others were negotiating about the reduction of conventional forces.[121]

This line of argumentation was also followed when Austria finally decided to buy the anti-tank missiles. The decision was preceeded by trials in late 1988 which also included the French "Milan" system. Here, domestic opposition was voiced because of the German components in the "Milan" which in this view would have contradicted the prohibition of "any war materiel of German manufacture, origin or design" in Article 14, paragraph. 4 of the State Treaty.[122]

Against this view, however, it was argued that a signatory power of the State Treaty (namely France) could not possibly have cooperated with Germany in producing war materiel, while opposing together with the other signatory powers Austria's the purchase or possession of the said war materiel. Dominance by a signatory power would thus make the German element irrelevant vis-à-vis the prohibition of the State Treaty.[123]

Finally, in 1989 a decision was taken to introduce the Swedish "Bill" anti-tank system into the Austrian Federal Army. No official protests were raised by any Signatory Power. The only protests came from the tiny Austrian Communist Party and other groups at the left fringe of the political spectrum which have, however, no significance in Austrian domestic politics.

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[116] *apa*, 18 June 1987.

[117] *apa*, 6 August 1987.

[118] *apa*, 7 September 1987.

[119] *Stenographisches Protokoll*, XVII. GP., 34. Session, 5 November 1987, pp. 3929-3930.

[120] *Izvestiya*, 28 August 1987; *Die Presse*, 17 September 1987, p. 3.

[121] *Die Presse*, 13 February 1989.

[122] *Der Standard*, 29 April 1989, p. 5.

[123] Heinz H. Vetschera, "Das 'Deutsche Kriegsmaterial' im Staatsvertrag", *Österreichische Militärische Zeitschrift*, vol. XXVII, 1989/3, pp. 193-199.

The Final Abrogation

The changes in the European security environment in the late 1980s finally opened up the opportunity for Austria to overcome the armament limitations of the State Treaty in a generalized way. Again, it was to follow the example of Finland,[124] but this time with a better understanding and in a politically more balanced fashion than a quarter of a century earlier. On September 21, 1990, Finland unilaterally declared the military clauses of the Peace Treaty irrelevant, with exception of the prohibition of nuclear weapons. The declaration was based upon the fact that German unification had created a situation where the stipulations of the Peace Treaty concerning Germany had lost their meaning.[125]

In a similar step, Austria on November, 6, 1990 sent the following communication to the Signatory Powers of the State Treaty:[126]

> "1. The State Treaty of Vienna of May 15, 1955, is of great importance to Austria; it forms a basis for Austria's position as a free and independent country and equal member of the international community. Moreover, the State Treaty was a milestone on the way to the establishment of a new European peace order after the end of World War II, which was followed 35 years later by the signing of the "Treaty on the Final Settlement with Respect to Germany" on September 12, 1990. As an equal partner of the European peace order Austria welcomes the conclusion of this Treaty.
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> 2. The State Treaty of May 15, 1955, contains in its part II "Military and Air Clauses" (Articles 12-16) regulations which were modelled along the lines of the peace treaties of 1947 with Italy, Romania, Bulgaria, Hungary amd Finland. Such regulations are - and in most cases have long been - considered obsolete by all these countries.
>
> 3. Since the conclusion of the State Treaty Europe has seen fundamental changes which have become manifest both in the way in which individual provisions of the articles mentioned were applied as well as in the changed legal conviction, also of the Signatory States, as expressed in the conclusion of the above-cited Treaty of September 12, 1990. Therefore, Austria holds the view that Articles 12 - 16 of the State Treaty are obsolete. This also applies to the provision of Article 22, para. 13, of the State Treaty, the purpose of which is analogous to the provisions cited above.[127] However, Austria continues to consider herself to be bound by international legal obligations not to construct, posses or experiment with any atomic, biological or chemical weapon."[128]

The responses by the respective Signatory Powers were all positive. The Soviet Union announced that it had "no objections against this interpretation of the mentioned articles of the State Treaty". The United States declared to be "sympathetic with Austria's desire to clarify the status of certain treaty provisions, in the light of the changed situation in

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[124] See the contribution of P. Järvenpää on Finland in chapter 4 of this book.

[125] *Ibid.*

[126] Text provided by the Austrian Ministry for Foreign Affairs.

[127] Article 22, para. 13 limits the transfer of former German assets to German juridical or physical persons.

[128] With respect to nuclear weapons, Austria is also bound by the Non-Proliferation Treaty, which has been ratified by Austria on June 27, 1969. With respect to biological weapons, the limitations of the Treaty on Biological Weapons applies to Austria after its ratification in August 10, 1973.

Europe" and that the United States "concurs with the Austrian Government view that Articles 12-16 and Article 22, no. 13, of the 1955 State Treaty have become obsolete". France issued a similar declaration, whereas the British side declared on occasion of the transmission of the pertinent Austrian note that there were no objections against.[129]

When the Yugoslav crisis broke out in July 1991, The National Defence Council decided to provide air-to-air missiles as well as shoulder-held ground-to air missiles for the Austrian armed forces.[130] This step was vehemently opposed by the Socialist Youth, the Socialist Women's organization, and the Greens.[131] In some instances, the argument was still made that these weapon systems would contradict the State Treaty, despite the fact that the pertinent provisions had already been abrogated. It thus indicates a certain "ingrained reflex" on the side of some groups who had been used for many years to play the argument of the State Treaty's prohibition clauses, whenever the issue of guided weapons were to be discussed.

Conclusions

The Vienna State Treaty, its armament limitation clauses, the discrepancy between the real and perceived impact on Austria's defence and security policy as well as the more or less successful attempts on the Austrian side to overcome these effects cannot easily be generalized. First, the restrictive military clauses of the first draft were then reduced during the years of negotiation to a scope which objectively would have restrained Austria's military capabilities only in irrelevant areas, as for example, naval armaments, or weapons of mass destruction, or long range weapons outdated by technological developments.[132]

Secondly, the armament limitations became only a problem because of a home-made misinterpretation which emerged almost a decade after the State Treaty had entered into force. They gained a security policy relevance only after the mislead attempts to solve the perceived problem in a way which could not find the consensus of a major Signatory Power.

Finally, this issue could be overcome by an interpretative approach which apparently was required to reduce domestic resistance as much as foreign policy obstacles. When the military clauses were finally abrogated in a comprehensive way, they had already completely lost their significance. Thus, an important step from the foreign policy and international law perspective went then almost unnoticed in domestic and international public.

On the other hand, some patterns may be worth noticing. First, there was a more or less persistent drive from the military and national security establishment to overcome the perceived negative impact of apparently not being allowed to gain the anti-tank and anti-aircraft capabilities which were to be expected from the respective guided weapons

[129] Reprinted in: *Österreichische Aussenpolitische Dokumentation*, December 1990, p. 32.

[130] The first step in 1988/89 had been confined to purchase guided anti-tank weapons, as the Socialist Party would not have agreed to anti-air and air-to-air missiles as late as 1990; *Arbeiter Zeitung*, 12 July 1991.

[131] *Der Standard*, 12 July 1991, pp. 1.

[132] As, for example, long range artillery.

systems. On the other hand, there was also a noticable resistance from the foreign policy establishment against alienating the Soviet Union by demanding a change in the State Treaty.

The attempts to gain consensus from the Soviet Union to solve this issue correlate with the differing phases in Austria's security policy. In the first phase until 1970, there were frequent attempts, apparently notwithstanding repeated negative Soviet replies. In the second phase from 1970 onwards, which downplayed military defence and emphasized foreign policy, all such attempts were muzzled. It meant that the wish of the military and security policy establishment to achieve a solution of the problem in article 13 did not get any support on the government level. More than that, it sometimes appeared that the foreign policy problems allegedly associated with any ideas to gain adequate equipment for the armed forces during this period also were used to support the ruling governments' position of a "foreign policy first" security policy, and to diminish the role of military defence. Thus, a climate emerged in which it was virtually impossible at the end of this period to touch the problem without drawing major criticism from the media and on a semi-official level. The issue was kept alive at that time primarily by some persons who felt responsible for providing adequate equipment for the armed forces, as for example the Commander of the National Defence Academy.

For these reasons, the solution found in the third period of Austria's security policy had, first of all, to address the domestic audience and make it clear that there were no foreign policy problems involved in closing the "missile gap", contrary to earlier perceptions. In relation to this step, the foreign policy side of this approach went relatively smoothly. This should not gloss over the fact that the solution was put in place under changed foreign policy conditions, too. It coincided with a less dogmatic Soviet foreign policy in the late 1980s. It could not be excluded that a Soviet position against the interpretative approach by simply claiming that the acquisition of any guided weapon was a breach of the State Treaty would also have effectively stalled this attempt, despite its consistency with the original meaning of the State Treaty, with earlier state practice, and even with early Soviet positions.

As a conclusion, earlier attempts had the domestic consensus to solve the problem, but were shaped in a way which found strong resistance on the side of the Soviet Union. This opposition may have been directed, however, against the legal implications for the State Treaty as a whole rather than against the material contents of the Austrian attempts. When the interpretative approach was undertaken, it had first of all to overcome bureaucratic (and also ideological) domestic resistance that could be brought to the international level when the only resisting Signatory Power could be expected to react in a more responsive way. For these reasons, it was successful. The same is also true for the final abrogation of the military clauses of the State Treaty, in general, in November 1990.

Chapter 8
The United Nations and the Elimination of Iraq's Weapons of Mass Destruction: The Implementation of a Cease-Fire Condition

Johan Molander

The Cease-Fire

In paragraph 33 of Resolution 687, adopted on 3 April 1991, the Security Council declared that, "upon official notification by Iraq to the Secretary General and to the Security Council of its acceptance of the provisions above, a formal cease-fire is effective between Iraq and Kuwait and the Member States cooperating with Kuwait in accordance with Resolution 678 (1990)."

The resolution thus lays down the conditions for the ending of hostilities and for the maintenance of a cease-fire. Given its explicit reference to Resolution 678 (1990), which authorised the use of force to dislodge Iraq from Kuwait, it can be argued that if Iraq is found in material breach of the conditions laid down in the Cease-Fire Resolution 687, Member States have the right to resort to the use of force in order to impose the implementation of its provisions. The Council's repeated and unanimous warnings of "grave consequences" for Iraq, in the case of violations, bear out the fact that the implementation of the resolution, in particular as it pertains to Iraq's weapons' capabilities, is backed up by a credible military threat. Thus, the use of force could be triggered at short notice without need for any new authorisation.

Military action in support of Resolution 687 could certainly not take the massive character required to end Iraq's occupation of Kuwait. It could, however, comprise air-strikes to destroy sites where Iraq opposes the demolition of prohibited items or military cover for inspection activities that Iraq resists. The latter option was under serious consideration in August and September of 1991, when Iraq resisted the use of UN helicopters in support of inspections.

The considerable progress made towards identification and destruction of prohibited weapon's capabilities in Iraq by the United Nations and IAEA during the first ten months after the adoption of Resolution 687, should be seen against the background of Resolution 687 as a conditional cease-fire, backed up by a credible option to use force.

Weapons Categories Subject to Destruction

Of particular importance in Resolution 687, without precedent in UN history, are the provisions aimed at the elimination of Iraq's capabilities in the area of weapons of mass destruction and ballistic missiles with a range over 150 km, coupled with measures aimed at foreclosing the acquisition by Iraq of any such capabilities in the future. These provisions are contained in part C (paragraphs 7-14) of the resolution.

In paragraph 8, the Council decided, that Iraq shall unconditionally accept the destruction, removal or rendering harmless, under international supervision, of

a) "all chemical and biological weapons and all stocks of agents and all related subsystems and components and all research, development, support and manufacturing facilities", and

b) "all ballistic missiles with a range greater than 150 kilometres and related major parts, and repair and production facilities."

With regard to the nuclear area, Iraq shall, under paragraph 12, "unconditionally agree not to acquire or develop nuclear weapons, or nuclear-weapons-usable material or any subsystems or components or any research, development, support or manufacturing facilities related to the above." Iraq shall further "place all of its nuclear-weapons-usable materials under the exclusive control, for custody and removal, of the International Atomic Energy Agency" and accept "the destruction, removal or rendering harmless, as appropriate, of all items specified above."

The long-term monitoring is established in paragraphs 10 and 13 which request the Secretary General and the Director General, to develop plans for the future ongoing monitoring and verification of Iraq's undertaking not to use, develop, construct or acquire any of the prohibited items.

It is noteworthy that, except for missiles which were used by Iraq in the conflict, the Security Council Resolution covers those weapons and weapon capabilities which were not used by Iraq, i.e. weapons of mass destruction. Iraq's conventional forces, still a considerable military asset, are not considered in the resolution. In spite of its harshness, the resolution can therefore not be considered an outright punishment. While any export to Iraq of "arms and related materiel of all types" remains prohibited (paragraph 24), this limitation is explicitly of a provisional nature: "until a future decision is taken by the Security Council". In the long term, the resolution does not impose any limitations whatsoever on Iraq's conventional military forces, nor on any conventional equipment and materiel such as battle tanks, attack-helicopters, short-range missiles or fixed-wing aircraft. The resolution thus also recognises Iraq's right to security and territorial integrity.

Rather than penalising Iraq, the Security Council, by singling out weapons of mass destruction and long-range missiles, first and foremost fulfils its function to safeguard international peace and security. Iraq shall not be again able to pose a regional or global threat by acquiring weapons considered qualitatively of a different kind - weapons of mass destruction and the means of their delivery.

The Security Council seems to imply that weapons of mass destruction are not neutral in relation to international peace and security but that their very existence pose a threat; in its preamble the resolution states that the Council is conscious *of the threat that all weapons of mass destruction pose to peace and security in the area* (italics added). The elimination of such weapons in Iraq is seen by the Security Council as a prerequisite for reaching a settlement in the Middle East by representing *steps towards the goal of establishing in the Middle East a zone free from weapons of mass destruction and all*

missiles for their delivery and the objective of a global ban on chemical weapons (paragraph 14).

If, thus, the Security Council, on the one hand, strictly limits the disarmament of Iraq to weapons categories, which in the hands of Iraq are deemed intrinsically to pose a threat to international peace and security, it authorises, on the other hand, a very broad interpretation of what the prohibited areas actually cover.

But, not only weapons should be destroyed, removed or rendered harmless. Subject items, for instance in the case of chemical weapons are, as mentioned above, all related subsystems and components and all research, development, support and manufacturing facilities. In the case of ballistic missiles, related major parts are repair and production facilities and in the case of nuclear weapons capabilities all nuclear-weapons-usable material or any subsystems or components or any research, development, support or manufacturing facilities related thereto.

It is obvious that the Council intended to cover not only weapons and specialised equipment, but also dual-purpose and general purpose items. The Council, thus, aimed at eliminating the very possibility for Iraq to renew its efforts in any of the prohibited weapons programmes.

The Implementing Agencies - the Interrelationship Between the Special Commission and the IAEA

In order to carry out the search for and the elimination of Iraq's prohibited weapons capabilities, the Security Council created its own subsidiary organ - the Special Commission (paragraph 9 (b) (i)) - but also made use of an existing organisation - the International Atomic Energy Agency, IAEA (paragraphs 12-13).

The Special Commission was given the task to carry out immediate on-site inspections of Iraq's chemical weapons (CW), biological weapons (BW) and missile capabilities "based on Iraq's declarations and the designation of any additional locations by the Special Commission itself". Iraq shall yield possession to the Commission of all its CW and BW capabilities "for destruction, removal or rendering harmless, taking into account the requirements of public safety". Iraq shall destroy all its missile capabilities "under the supervision of the Special Commission".

The Special Commission shall also provide "assistance and cooperation" to the Director General of the IAEA required for the carrying out of his tasks under paragraphs 12 and 13 of the resolution. Furthermore, the Special Commission shall develop a plan for the future on-going monitoring and verification of Iraq.

The tasks given to the Director General of the IAEA in the nuclear area are similar, albeit somewhat more limited. Iraq shall place all of its nuclear-weapons-materials "under the exclusive control of the IAEA with the assistance and cooperation of the Special Commission." The Director General is further requested "through the Secretary General, with the assistance and cooperation of the Special Commission" to carry out the immediate on-site inspections of Iraq's nuclear capabilities, based on Iraq's

declarations and the designation of any additional locations by the Special Commission. In addition, the development of a plan for the future long-term monitoring and verification of Iraq, including an inventory and a confirmation that the Agency safeguards cover all relevant nuclear activities in Iraq shall be made.

It is obvious from the above that the Security Council mandated close cooperation between the Special Commission and the IAEA. Each agency carries out its obligations in its particular field of expertise, but the Special Commission is charged with an overall coordinating role. Its tasks include assistance and cooperation with IAEA in each and every aspect of the nuclear field.

The Special Commission is also - and this is a key point - solely responsible for the designation of additional sites. This means that the Special Commission is responsible for the analysis of the Iraqi weapons programmes, and thus becomes the main recipient of intelligence and information from Member States regarding all programmes, including nuclear. The overall responsibility of the Special Commission, as the subsidiary organ of the Security Council, was further specified and strengthened in Resolutions 707 (1991) and 715 (1991), the latter of which approved the long term monitoring plans and gave a more permanent character to the Special Commission.

Thus, in paragraph 3 (iii) of Resolution 707, Iraq is forbidden to attempt any movement or destruction of nuclear equipment or items, whether they are related to nuclear weapons or not, without notification to and prior consent of the Special Commission. Requests to the IAEA, thus, had to be referred to the Commission. In Resolution 715, the Council decides, for the implementation of the long term monitoring plans, that the Special Commission "shall:

> (a) continue to render assistance and cooperation to the Director General of the International Atomic Energy Agency, by providing him by mutual agreement with the necessary special expertise and logistical, informational and other operational support for the carrying out of the plan submitted by him;
>
> (b) perform such other functions in cooperation in the nuclear field with the Director General of the International Atomic Energy Agency, as may be necessary to coordinate activities under the plans approved by the present resolution, including making use of commonly available services and information to the fullest extent possible, in order to achieve maximum efficiency and optimum use of resources."

The close cooperation between two bureaucracies, one operating out of Vienna and the other out of New York, in implementing an urgent, difficult and unprecedented task in the Middle East could, of course, be seen as a recipe for institutional infighting and misunderstandings. However, the only options, either giving to the Special Commission exclusive responsibility for the entire implementation of part C of Resolution 687, or giving to the IAEA exclusive powers and responsibilities in the nuclear field, would have entailed certain disadvantages. In the first case, the IAEA expertise in nuclear fuel and special fissionable material, knowledge of declared Iraqi activities and verification

experience regarding accountancy and the application of seals might not have been used. This would have resulted in a loss of valuable time and efficiency. The second option, besides the problem that IAEA lacks nuclear weapons expertise, would have resulted in duplication of work and loss of one of the most important aspects of the actions taken vis-à-vis Iraq, namely unity of purpose and unity of approach - for which unity of command is essential.

Results were expected, and expected quickly by the Security Council, and the world community at large. Furthermore, personal communications and relations are important, even when implementing measures under Chapter VII of the UN Charter. Thus, the fact that the Executive Chairman of the Special Commission and the Director General of the IAEA share a common background in the far from conflict-prone Swedish diplomatic service, helped ease out possible bones of contention.

As a result, the IAEA expertise and a number of experienced and outstanding IAEA inspectors made valuable contributions to the common effort. By the same token, the assistance of nuclear weapons expertise, acquired by the Special Commission, proved crucial for carrying out nuclear inspections. The concentration of intelligence gathering and analysis in the hands of the Special Commission enabled the inspection teams to carry out a consistent pattern of short-notice inspections in an unpredictable way, and to react with great speed to new information. Likewise, the overall responsibility for coordination and logistical support of the Special Commission, drawing on the experience of peace-keeping operations and the vast communication capabilities in the UN Headquarters, guaranteed high efficiency.

Involving the IAEA with the implementation of Resolution 687 involved at least potentially- another risk. IAEA is not a specialised agency, subsidiary to the United Nations, but rather an independent organisation cooperating with the United Nations under a specific agreement (INFCIRC 11). Thus, in principle, involving the Agency could mean involving its policy-making organs, the Board of Governors and the General Conference. Such an eventuality was far from desired by the Security Council which, acting under Chapter VII of the Charter, wanted to keep firm and exclusive control of operations under the Cease-Fire Resolution. The Council, in Resolution 687 and related resolutions, consequently addressed not the IAEA, but the Director General of the IAEA, thereby excluding its policy-making organs while making full use of its Secretariat.

As the costs of the IAEA for carrying out activities under Resolution 687 are covered by the United Nations through the Special Commission, the budgetary role of the IAEA General Conference can not be called into play either. As far as the Director General is concerned, his activities under Resolution 687 cannot be questioned by the policy-making organs of the IAEA. Firstly, he has a direct reporting capability to the Security Council under the Statute of IAEA and furthermore, according to the cooperation agreement with the UN, the Agency shall "cooperate with the Security Council by furnishing to it at its request such information and assistance as may be required in the exercise of its responsibility for the maintenance or restoration of international peace and security."

Results Obtained in 1991

In the following, some important elements of how the Special Commission (UNSCOM) carried out the cease-fire conditions, as they relate to armaments, will be analyzed. As a background, however, a short resumé of the results obtained in 1991 might be useful.

Resolution 687 was adopted on 3 April 1991. The members of the Special Commission were appointed on the 18 April. The Executive Chairman, Ambassador Rolf Ekeus from Sweden, took up his post on 24 April. Plans for the implementation of Section C of Resolution 687 were submitted on 17 May. At the same time, a Field Office was established in Bahrein and a Support Office in Baghdad.

The first on-site inspection took place on 14 May. Until the end of the year, an additional twenty-two on-site inspection missions were completed. Each inspection team averaged 20-25 members with a length of stay in Iraq varying from one to five weeks. Some 120 different inspection sites were covered.

UNSCOM acquired two C-160 aircraft based in Bahrein and three heavy rotary-wing aircraft based in Baghdad as well as high-altitude surveillance facilities, making at least weekly surveys of suspect sites.

In addition to the inspection missions, two fact-finding missions (on site regarding CW-destruction) were successfully concluded and a plan for destruction of Iraqi CW outlined. Plans for long-term monitoring of Iraq were elaborated and submitted on 2 October and unanimously adopted by the Security Council in Resolution 715 (1991). Guidelines for the destruction, removal or rendering harmless of dual-purpose and general purpose items in Iraqi weapons programmes were elaborated and information on foreign suppliers was collected.

As a result, substantial parts of a clandestine nuclear-weapons programme including i.e. three uranium enrichment programmes and an advanced nuclear weapons design, were unmasked. A gigantic chemical weapons programme was painstakingly accounted for as well as a programme for the development of biological weapons was discovered and investigated.

In addition to sixty-two ballistic missiles and four super-guns, some 500 other major parts of the ballistic missile capabilities were destroyed. Fresh nuclear fuel was removed together with other sensitive nuclear items, such as streak cameras. Unfilled chemical weapons were destroyed and the first steps towards agent destruction through hydrolysis and incineration were taken. Leaking munitions to be disposed of by explosive demolition were identified.

At the close of 1991, efforts were further intensified - through contacts with Governments and assessment and analysis of information at hand - in order to improve accountability for Iraq's ballistic missile capabilities and to uncover those parts of Iraq's nuclear weapons programme which had so far evaded detection. At the same time, an information assessment unit was established and the Commission was reoriented towards the implementation of the long-term monitoring phase.

The results enumerated above, achieved during seven months of activities, were of course not conclusive. Yet, they are still impressive by any standard. It was clear that Iraq's attitude would not be cooperative. Regarding programmes to which Iraq - after its

military defeat - obviously attached less importance (such as chemical and biological weapons), no major active concealment effort was made. Still, information had to be extracted little by little. In a priority area like the nuclear weapons programme, Iraq consistently concealed its assets and also resorted to physical intimidation such as the firing of warning shots against inspectors in June at Fallujah, and the virtual hostage taking of a whole inspection team at a Baghdad parking lot in September 1991. The effectiveness and credibility of the UN effort has, therefore, rested on two pillars: absolute intrusiveness backed up by a united Security Council, acting under Chapter VII of the Charter, and access to independent information.

The Special Commission

Composition and Decision-Making

The Special Commission which was appointed on 18 April was indeed "special" in most aspects. Usually commissions set up by the United Nations are collegial, deliberative bodies with members appointed by Governments according to strict geographical criteria. They reach decisions by consensus. Such a body would obviously not have been commensurate to deal with the operative and urgent task presented by Resolution 687. While all geographical regions were represented among the twenty-one members appointed by the Secretary General to the Special Commission, the requirement of expert knowledge in either of the weapons areas - nuclear, chemical, biological or ballistic missiles - led to a preponderance of members from industrialised countries.

In various fora, diplomatic representatives of some non-aligned countries did, in the following months, express concerns about the composition of the Commission. Such complaints make a slightly disingenuous impression. The Special Commission repeatedly sought expert assistance from a broad number of Member States. In fact, particularly those non-aligned developing countries which have a developed defence industry and proven or possible capabilities in any of the subject areas showed great shyness in proposing experts to the Special Commission. The members were thus chosen on the basis of their expertise and appointed in a personal capacity.

The Secretary General appointed the Swedish diplomat Rolf Ekeus to the position of Executive Chairman. He had experience as Ambassador to the Conference of Disarmament in Geneva and the CSCE in Vienna. Calling the Chairman "Executive" implied a decision-making quite different from that of an ordinary UN Commission. In fact, the Executive Chairman was designated to act and take all requisite decisions alone. He was made solely responsible to the Security Council.

The Special Commission, as a body, thus became of little consequence. Since the adoption of Resolution 687, it met until the end of 1991 in plenary session only twice, in May and October, and then only for a couple of days. This is not to say that the individual members of the Special Commission have no influence. On the contrary,

most of them by virtue of their expertise, have made important contributions and had great influence in the daily work of the Special Commission. This influence, however, has not been exercised as members of the Special Commission, but rather as experts in the Office of the Executive Chairman. The Special Commission, therefore, in operative terms became synonymous with the Executive Chairman himself and the Office of Experts that worked with him in the UN Headquarters.

The Office of the Executive Chairman: Organisation and Functions

It is close to impossible to give a coherent and still faithful account of the workings of the UNSCOM Office. The organisation changed dynamically according to the need of the day. Experts came and went on an ad-hoc basis for a few days or a few months, working on special and multiple tasks and subjects. This extremely flexible approach was made possible by the fact that there was no established budget, no posts and indeed no salaries.

Except for a few professionals and clerical staff from UN Headquarters and a few experts on special contracts, most members of the Office, including Ambassador Ekeus himself, constituted contributions from their respective Governments. The organisation constantly expanded or retracted, depending on circumstances. It hardly lends itself to an orderly description which could be translated into a comprehensive and illustrative organigramme, however, an attempt will however be made to present some basic outlines of the organisation.

Of permanence was the group of Chief Officers working immediately with the Executive Chairman. It comprised the Deputy Executive Chairman, the Special Adviser, the Legal Adviser, the Chief of Operations and the Chief Administrative Officer. In addition to their general responsibilities and due to their past experience, the Deputy Executive Chairman specialised in nuclear issues, the Special Adviser in chemical and biological weapons and the Chief of Operations in ballistic missiles.

The rest of the Office presented a less clear picture. While administration was clearly separate, the main functions of operations and planning/analysis were intertwined. A few officers had broad operational responsibilities, otherwise the activity tended to divide into inspection-specific working-groups making the analysis of information at hand, planning a specific inspection in detail, putting the team together, preparing instructions and launching the inspection. Most of the time the Chief Inspector of a particular inspection mission participated in the planning. One or more members of such a working group participated in the inspection, while at least one stayed at Headquarters to process the feed-back from the field. This organisation, or lack of it, proved particularly efficient in fielding inspections and getting results.

With time, however, certain disadvantages appeared. As this kind of organisation was aimed, first of all, at producing inspections and covering as many sites as possible in a short period of time, analytical overview and assessment of results tended to get a secondary role. There was a risk that valuable information could be lost or not followed up in a timely fashion. With the acquisition of high-altitude surveillance facilities in

September of 1991, it became even more apparent that the Commission needed to devote more time to analysis and assessment of its own results. This was required, not only to avoid being led by information provided by Iraq, but also to establish and maintain independence vis-à-vis the assessments of contributing and cooperating Member States.

At the outset, the Special Commission had to rely on information from Member States, in addition to Iraqi declarations. There were, however, serious shortcomings in governments' knowledge of Iraqi weapons programmes as was evidenced by the communication received by the Commission from the end of April onwards. Thus, the Iraqi nuclear weapons programme turned out to be far more advanced, sophisticated and broad than had ever even been imagined.

In Spring 1992, a number of unresolved issues were still outstanding. On the other hand, perceptions of Iraqi capabilities in the field of biological weapons tended to be exaggerated. As far as chemical weapons are concerned, the Iraq encountered difficulties to produce sufficiently pure nerve agents, as this agent rapidly deteriorates when stored. Estimates of filled munitions and stored agent were sometimes also exaggerated. Also, the knowledge of Iraqi missile capabilities was incomplete.

While the suppliers of this information tended to readily accept new findings of the Commission, as in the nuclear field, they tended, on the other hand, to disregard negative findings and stay with their own estimates.

It was imperative for the Commission to establish its own information assessment capability in order to provide the Chairman with firm evidence that Iraq's claim that everything had been disclosed was patently false. Such claims were reiterated with every new revelation extracted by UNSCOM. On the other hand, the Chairman needed firm evidence in areas that had been sufficiently investigated, in order to withstand claims from Member States that only the top of the ice-berg had been seen thus far.

In October of 1991, work started on the establishment of an information assessment unit and computerisation of inspection reports. The unit became operable in February 1992. At the same time, the Special Commission started to reorganise for the implementation of the long term monitoring phase. Thus, three main units can now be clearly distinguished under the group of Chief Officers, namely the planning unit, the operational unit and the information assessment unit. This somewhat stricter structure does not exclude the setting up of different ad hoc groups to deal with specific inspections or issues such as chemical weapons destruction.

Over the period covered here, the Office remained comparatively small; at any given moment it was seldom staffed with more that 25-30 people, including clerical staff.

The Offices in Bahrein and Baghdad

It was obvious from the outset that UNSCOM would need an operational base in the region. Already on 2 May, the Permanent Representative of Bahrein to the United Nations was approached in this matter. The Government of Bahrein readily accepted the

proposal to establish a Field Office of UNSCOM in Manama. Arrangements were immediately put in place. These included office space, a training area, back-up laboratory and medical facilities as well as facilities at Manama airport. An agreement between the UN and the Government of Bahrein was subsequently concluded. A Support Office was also established in Baghdad on the premises of UNIKOM with logistical, transport and communication facilities.

The Inspection Activities[1]

The Inspection Teams

With time UNSCOM acquired vast experience in planning and putting inspection teams together. These had to be tailor-made to each mission.

In addition to experts in the particular field of each inspection (e.g. chemists, munition experts, nuclear scientists, biologists etc.), a typical inspection also required explosive ordnance disposal (OED) personnel, indication and decontamination personnel, sampling experts, structural engineers, medical doctors with experience in treating chemical warfare agent casualties, translators and interpreters, communication and logistics.

In some instances, particularly in the ballistic missile field, the Commission could build on experiences from the U.S.-Soviet INF Treaty verification. Furthermore, IAEA knowledge of special materials (nuclear accountancy, radiation protection and the application of tamper-indicating seals) was particularly useful in nuclear inspections. In the area of nuclear weapons design and delivery, however, IAEA could not contribute and the Commission had to look for external expertise, recruited from weapons laboratories in the nuclear weapons states.

Inspections were planned at UN Headquarters in Manama where the appointed Chief Inspector received thorough briefing and the teams assembled for training and acclimatization. The teams then flew to Iraq in a C-160 aircraft and proceeded with their mission. Debriefing and report-writing took place in Manama, after which the teams disbanded. Only the Chief Inspector and members of the team that may have been members of the UNSCOM Office at Headquarters returned to New York to report to the Executive Chairman.

Intrusiveness

Resolution 687 gave the Special Commission broad powers to carry out its mandate. It was, however, not very detailed in specifying these powers. Detailed provisions were elaborated by the Commission and communicated to Iraq in a proposed exchange of letters by the Secretary General on 6 May 1991. Iraq resisted these

[1] For a full account of the Special Commission's verification approach and the rights and obligations of inspectors see J. Molander, "The United Nations and Iraq: a case of enforced verification and disarmament", in *Verification Report*, Vertic, London 1992.

provisions and only after pressure had been exercised by the Security Council did it execute the exchange of letters, which entered into force on 14 May.

In the agreement, UNSCOM established its right to unrestricted access to any site in Iraq, the right to request and retain data, information and documents including photographic evidence, the right to conduct interviews, to install equipment, to take aerial photographs, to collect and export samples, etc. These rights were further confirmed, in particular those concerning aerial surveys, in the subsequent Security Council Resolutions 707 and 715.

These extensive rights were aimed at giving inspectors the possibility to act with the greatest rapidity, thus making full use of aerial or satellite photography. Two examples can be given. In July 1991, the UNSCOM office in New York received evidence that undeclared missiles might be present at a military base in the centre of Iraq. An inspection team, including inspectors from New York, were on site within 48 hours. In this particular case the missiles turned out to be decoys. They were destroyed in order to facilitate the continued overhead accountancy.

In June 1991, Iraq moved calutrons, used for the electromagnetic separation of uranium, on flatbed trucks through the country. Inspectors were denied access to the Abu Garaib barracks where they had been parked. When the inspectors were finally admitted, the trucks had disappeared. Headquarters in New York could then, through secure communications, guide the inspection team to the facility at Fallujah where the trucks had been moved. It was at this site that warning shots were fired by Iraqi security personnel when inspectors pursued the trucks exiting the facility. The incident led to a stern warning from the Security Council, the dispatch of a high-level mission and eventually the admission by Iraq of the uranium enrichment programme it had tried to conceal.

Independent information

The effectiveness of unrestricted access is, of course, dependent on whether the inspectors know where to go. Even if some of the shortcomings in the original Iraqi declarations were evident to anyone who had followed the open specialised press, the Commission was at the outset, in urgent need of more specific information. The original Iraqi declarations were, therefore, distributed to some sixty UN Member States, in fact to any State which could conceivably have views and confidential or public information on Iraqi weapons programmes. Thus, cooperation started with intelligence communities from a number of states, mainly from of the major ones. Valuable information, however, also came from unexpected areas including private sources.

The Commission needed imagery of declared and suspected sites as well as line drawings in order to plan inspections thoroughly. This has been regularly provided to the Commission and has been of paramount importance for the planning and carrying out of inspections.

As regards sites which had been subject to Allied bombing, the Commission also requested and often received details on quantities and types of ordnance that had been

used against the target, to be able to estimate the hazards posed to inspectors by unexploded ordnance.

The major part of the intelligence provided was imagery and analysis based on imagery. In only a few cases have human sources been used but with very successful results. Thus, the discovery of the electromagnetic isotope separation programme was made possible by a human source. He provided explanations of samples analysis, taken during a previous inspection, and to satellite photos which had not been understood. The seizure of documents relating to nuclear weapons design was also made possible by information from a human source.

As the Commission gained experience on the ground, it accumulated its own information and became more independent. While satellite photography and line drawings made from them were still indispensable, the assessment of Iraqi weapons programmes could, with time, be made inside the Commission itself.

The Commission also grew more independent in another way. The use of satellite photography provided by governments was found to have certain shortcomings. Due to the confidentiality of these photos they could only be used for briefing the Office of the Chairman and Chief Inspectors. The photos could not be kept and analyzed by the Commission or used for reference and comparison. Furthermore, the Commission could not independently request photos of particular sites at particular times. The Commission therefore, accepted the offer by the U.S. Government to put a high-altitude surveillance aircraft at the Commission's disposal.[2]

Flights started on a regular basis in September of 1991, backed by the explicit wording of Resolution 707 (1991). The flights were duly notified to Iraq which acknowledged receipt of each notification, while also regularly protesting what was termed "a violation of Iraqi air-space by a U.S. spy-plane." The aircraft was based in Saudi-Arabia and carried UN markings. The pilot was provided with UN identification documents. More importantly, these flights were directed to specific targets at the request of the Special Commission which also retained the right to cancel any flight. Furthermore, the photography provided by the flights became the property of the Commission to retain, use and analyse by its own means.

Destruction, Removal or Rendering Harmless

Principles

As mentioned above, the Special Commission was entrusted to destroy, remove or render harmless a very wide variety of items. The decision was left to the Special Commission of what exactly had to be disposed of and how. It could be safely assumed that the issue would be controversial. Therefore, the Commission proceeded to elaborate guidelines which were finalised at the end of October 1991.

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[2] For a detailed account of the operation of high-altitude surveys in Iraq see Molander: "Mandated Aerial Inspections: The Iraqi Case" in M. Krepon and A. E. Smithson, eds., *Open Skies, Arms Control and Cooperative Security*, New York: St. Martin's Press, 1992.

United Nations Special Commission Completes Sixth Inspection of Iraqi Chemical Weapons Sites
22 October – 2 November 1991 – Iraq
A United Nations Special Commission (UNSCOM) inspection team, has recently returned from Iraq after completing their sixth mission. The missions are authorized by the United Nations Security Council under the terms of the crease-fire resolution 687 (1991), which calls for the elimination of Iraq's weapons of mass destruction.
The 26-member team from ten nations, headed by Dr. Bernhard Brunner of Switzerland, used United Nations helicopters to inspect the sites in remote areas from 22 October to 2 November 1991. The team counted thousands of bombs, shells and warheads filled with lethal chemical agents, many of them damaged and leaking in the storage areas.

Declared-mustard-filled 250 kg. bombs in a storage area of Saddam airbase, near Mosul.
UN Photo 158680/ H. Arvidsson

"Destruction" was defined as the physical demolition of an item (for chemical agents its appropriate chemical transformation; for biological agents the death of microbial cells or spore forms, the inactivation of virus and the inactivation of toxins).

"Removal" was defined as moving the item to outside Iraq.

"Rendering harmless" was defined as the modification of an item to such a degree that it no longer possesses specific features that render it capable of use for prohibited activities or readily amenable to reconversion; and/or establishment by the Special Commission of specific verification arrangements for the use of the item consistent with Resolution 687 (1991).

The general rule laid down by the Special Commission was to proceed with destruction or removal when destruction was practically or safely possible. This rule was to be without exception in the case of all proscribed weapons and weapons-systems, including all their related subsystems and components; for ballistic missiles - their major parts including launchers; for chemical and biological weapons all stocks of agents and precursors. The rule was also to apply without exception to all material and equipment specially designed for use in prohibited activities related to prohibited items.

As regards to dual purpose, multi-purpose or general purpose equipment or material used or intended to be used in prohibited activities, the Special Commission could authorise their use in activities not prohibited by Resolution 687, but only upon official written request from Iraq. The Commission would examine and decide upon each request and establish the special arrangements required for rendering the equipment or material harmless in its permitted use. Essentially, the same rules applied to buildings as to equipment and material in proscribed activities.

Chief Inspectors were empowered to instruct Iraqi authorities to destroy any item that was considered subject to destruction under the guidelines. If Iraq raised objections in writing and within the scope of the guidelines, this was to be communicated to the Special Commission for a decision by the Executive Chairman, together with the recommendations of the Chief Inspector and the observations of any member of his team.

The Special Commission would consider the request on a case by case basis. In determining whether permission to use the items as requested by Iraq should be granted the following considerations were to be taken into account:

-the item is to be used for humanitarian or other clearly defined civilian purposes; no permission was to be granted if the item was requested for use even for a permitted military purpose;

-the item is generally available in Iraq; or

-Iraq, if the permission is not granted, will be able to seek legitimate authorisation from the Committee established by Resolution 661 (1990) (i.e. the Sanctions Committee) to import the same item or material from abroad.

As for the actual carrying-out of the destruction, Resolution 687 is clear as regards the nuclear and ballistic missile areas. It is to be carried out by Iraq under the supervision of the Special Commission.

As regards chemical weapons, the Resolution states that Iraq shall "yield possession to the Special Commission, for destruction, removal or rendering harmless, taking into

account the requirements of public safety." This wording does not explicitly charge the Special Commission with the actual destruction of Iraqi CW, but does not exclude it either. It certainly implies a higher degree of direct involvement by the Commission in the destruction programme in order to ensure public safety, for which the Commission will have responsibility.

Chemical and Biological Weapons Destruction

The destruction of biological weapons capabilities has not posed any problem. The relevant major facilities were completely destroyed during the hostilities. A dozen other sites were identified and inspected by the Commission as relevant in the biological field. No link, however, could be established between them (e.g. a plant for the production of vaccine against Foot and Mouth Disease) and the military programme. Therefore, they were not relevant under the guidelines for destruction but rather under the long term monitoring plan.

The problems posed by chemical weapons destruction were primarily of a technical nature. In view of the Commission's responsibility to take "into account the requirements of public safety" the major issue was to determine to what extent Iraq could be involved in the destruction of its filled munitions and stocks of agent and to what extent the Commission had to take direct responsibility to build and run the destruction facilities.

Some of the *munitions* were in such poor condition and presented such hazards that they could not be safely transported or even moved. Such items had to be disposed of on site by explosive demolition. Detailed procedures were elaborated by the Commission to perform such demolition without accident. The first in a series of explosive demolitions was successfully carried out by Iraq in early March 1992 according to these procedures and under the control and at the direction of the Commission at Khamissiya.

Transportable munitions and stocks of agent, however, were to be destroyed at a central site in Iraq - for which the Muthanna site was chosen. Mustard agent and its precursor thiodyglycol would be destroyed by incineration and nerve agent by hydrolysis. Iraq quickly offered to construct an incineration plant and also to carry out the hydrolysis. Their experts claimed having experience from a destruction programme of unusable munitions in the wake of the Iran-Iraq war.

The Advisory Group on Chemical Weapons Destruction, appointed by the Executive Chairman in June, was skeptical - to say the least. There were also other offers: a transportable Canadian incineration unit, a mobile Russian unit (KOuASI) and a number of commercial American offers involving more or less sophisticated technologies including kryofracture. In August 1991 a fact finding mission, led by the author, was dispatched to Iraq. It concluded that the Iraqi offer merited to be explored in detail and that Iraq could possibly be charged with the task, on the condition that test runs be made. This until the Commission was satisfied that safety and environmental standards (established by it) could be met, and that every step of the process be closely supervised, controlled and directed by the Commission.

Special Commission Team Supervises Destruction of Iraq's Chemical Weapon Arsenal
Khamissiyah, Iraq – 21 February to 24 March 1992
The first chemical weapons destruction team of the United Nations Special Commission (UNSCOM) supervised the destruction of 463 122 mm rockets which were loaded with sarin, a nerve agent. These actions are being carried out as required by Resolution 687 (1991) of the Security Council, to render harmless all of Iraq's programmes of weapons of mass destruction. The inspection team comprised of 26 experts from seven countries under the leadership of Michel Desgranges. Destruction activities took place at the Khamissiyah Storage Site, 400 km. south of Baghdad. Fifteen destruction operations were conducted, the method selected involved an explosive charge to open the munitions, destroy the rocket motor and ignite a fuel fire to incinerate the agent. All safety and environmental rules were strictly applied.

Routine decontamination of a United Nations inspector at the end of a day's work.

UN Photo 159098/ H. Arvidsson

The mission also recommended that abundant stocks of such precursors as $PC1_3$ and $POC1_5$, which have broad commercial applications, be removed from Iraq rather than destroyed: such a removal would be cheaper than destruction on-site. Furthermore, the environmental inconvenience of burying large amounts of salts resulting from the hydrolisation would be avoided. The Advisory Panel was, however, still skeptical and a second fact-finding mission was dispatched in November. The second mission confirmed the first mission's findings thus providing the Chairman with a basis for a decision.

By March 1992, transport of munitions to Muthanna started as well as sampling and tagging of the different lots. The first steps have been taken by Iraq for the construction of an incineration plant and an undamaged plant at Muthanna has been converted into a pilot-plant for hydrolysis. The programme is thus well under way, even if certainly two more years are needed before it can be concluded. It might be superfluous to point out that it is not without risk for the UN and the Iraqi personnel involved, therefore every phase is closely controlled by the Commission.

Destruction of Nuclear and Ballistic Missile Items

The destruction of nuclear-related and ballistic missile items caused the most serious problems in relation to Iraq. The items identified for destruction covered vast amounts of sophisticated, expensive, hi-tech equipment. Much of was fully operable and irreplaceable for Iraq in the foreseeable future. The capital investment in the facilities, as they stood before the hostilities, ran into eleven - or twelve - digit dollar figures. It was expected that Iraq would try to resist. Resistance arose in February and March 1992 over the Commission's instructions to Iraq to destroy a long list of ballistic-missile related items. Even the visit of the Executive Chairman to Baghdad did not soften the Iraqi intransigence. Deputy Prime Minister, Tariq Aziz, arrived in New York in mid-March to explain his country's position to the Security Council.

The Council was not impressed. When meeting at the Heads of State and Government level, on 31 January, it had stressed that all resolutions adopted by it on this matter remained essential to the restoration of peace and stability in the region and must be fully implemented. As Aziz returned to Baghdad, the Council endorsed the statement of its President, which for the third time in a couple of months established that Iraq was in material breach of Resolutions 687, 707 and 715.

Belligerent noises from Washington and London, accompanied the movement of American naval units in the Gulf, on 19 March 1992, Iraq, through its Permanent Representative in New York finally communicated its readiness to destroy the equipment and submit requisite information under Resolution 715. At the same time, a number of ballistic missiles, launchers and a few chemical missile warheads that had been concealed were finally declared. The Commission had evidence as to the existence of this equipment, but had not yet been able to localise it. There remains a risk, however, that confrontations of this kind will continue to emerge.

The Long Term Monitoring Plans

The third and final phase of activities under Resolution 687, and the final cease-fire condition in the weapons area, is the long term monitoring and verification of Iraq's undertakings to not acquire, develop or use any of the prohibited items. The plans elaborated by the Special Commission and IAEA were adopted by Resolution 715 (1991) and are contained in documents S/22871/Rev. 1 and S/22872/Rev. 1 and Corr. 1.

The plans call for extensive declarations by Iraq in all areas in any way related by technology or otherwise to proscribed activities and proscribed items. It also severely limits Iraq's ability to carry out peaceful nuclear activities by proscribing all such activities except for the peaceful use of isotopes in medicine, agriculture and industry.

The plans maintain the rights of the Special Commission and IAEA to carry out inspections in Iraq. They also maintain the right to unimpeded access at any time, anywhere and without notice, and their right to freedom of movement, to use their own fixed-wing and rotary-wing aircraft, aerial photography and surveys, etc.

As has been described above, the Special Commission has already modified its organisation in order to respond to the long-term requirements. By March 1992, however, the implementation of this phase had not started. The main reason being that Iraq had so far refused to submit the requisite declarations. On 18 February (A/23606), the Executive Chairman reported to the Security Council that, if the Iraqi attitude did not change, "the third and final phase of the responsibilities of the Special Commission under paragraph 10 of Resolution 687 (1991) cannot be implemented, nor can Resolutions 707 (1991) and 715 (1991)."

On 19 February, Iraq finally committed itself to making the necessary declarations. From this commitment to the full implementation of a long term monitoring regime there is, however, still a considerable distance.

Conclusion: From Versailles to Iraq

It is somewhat risky to attempt to draw conclusions from a unique endeavour which is still far from concluded, especially if one - like the author - has been actively involved in the activity. Furthermore, historical analogies easily become artificial. Undue emphasis might be given to certain elements in order to establish construed similarities without regard for the differences between two fundamentally incomparable historical situations. While it is the view of the author that history rarely repeats itself, patterns of behaviour certainly do. Furthermore, the very framework of this volume constitutes an irresistible temptation to make a few comparisons between the Armistice and Versailles Treaty of 1918-1919, on the one hand, and Security Council Resolution 687 (1991) on the other.

Objectives

There are striking similarities between the immediate objectives of both regimes. The vanquished State shall render possession of vast quantities of weapons and weapons

capabilities "to be destroyed or rendered useless" (Art. 168 of the Versailles Treaty) - "for the destruction removal or rendering harmless" (paragraph 8 of Res. 687). The destruction was in both cases mainly to be carried out by the defeated State itself under international supervision, even if in the Iraqi case, the Special Commission was given a more active role in the destruction of chemical weapons.

Both disarmament regimes were, at least initially, carried out swiftly and effectively, backed up by a credible military threat whenever recalcitrance was shown: the occupation of the Rhineland, in the case of Germany and in the case of Iraq possible interventions in the Western Zone in August-September 1991 and the constant threat of air-strikes, particularly in June and September 1991 and March 1992.

However, as described above, the Security Council never aimed at completely disarming Iraq, curtailing the number of its armed forces or its conventional equipment, setting limits for its command structure, its military budget or its defence doctrines. The Security Council concentrates solely on the objective of the permanent elimination of weapons of mass destruction and the means for their delivery.

The victorious powers in 1919 did not accept a military establishment in Germany that went further than what was needed for its *safety*, by which supposedly only the internal stability of the new-born Republic was taken into account. The Security Council by its action in 1991 however also took into account the security of Iraq, by leaving its conventional forces outside the international concern and by expressly affirming *the sovereignty, territorial integrity and political independence of Kuwait and Iraq.* (Preamble of Resolution 687, italics added.)

Thus there was in 1991 a greater ambivalence in favour of Iraq than there was for Germany in 1919. And indeed the Iraqi Kaiser was not dethroned!

Second thoughts, however, developed in both cases - but in opposite directions. In the early 1920's, thoughtful persons understood that instead of pushing Germany into cooperation with Moscow, Germany might have been needed as a bulwark against expansionist Bolshevism. In 1992 in the face of the continued ruthless practices of Saddam Hussein - the question emerges, whether the war was not terminated too early, and whether the concerns regarding Kurdish autonomy and Shiite expansionism in the Gulf States really warranted being so pusillanimous about Iraqi territorial integrity.

Even if some Iraqi personalities might feel differently, the fact remains that the regime under Resolution 687 (1991) is much less of a punishment than was the Versailles Treaty.

There is a second similarity between the objectives of the two regimes, namely that the implementation of the prescribed disarmament measures in the vanquished State was seen as a step towards and a prerequisite for a broader disarmament objective, involving a whole region.

The failure of the League of Nations to implement the long-term objective of European disarmament, in addition to the punitive character of the measures initially imposed on Germany, could arguably be seen as at least one main factor in the collapse of the long-term compliance regime for Germany and its eventual rearmament. It is certainly doubtful to what extent a lesson for the UN can be drawn from this failure of the League. The UN unlike the League - was not created in order to achieve

disarmament, but rather to safeguard international peace and security, giving the right to individual and collective self-defence a prominent place in its Charter.

The Security Council has, therefore, never dealt with armament or disarmament issues. In this respect also, Resolution 687 constitutes a complete novelty. In it the Security Council, acting under Chapter VII, recognises that *all* weapons of mass destruction in the area pose a threat to international peace and security. It follows that once those weapons have been eliminated from Iraq, the Council carries a responsibility to take steps towards their elimination in the whole region.

The task is not easy but its urgency will make itself increasingly felt. The recurrence of an "Iraqi case" in Iraq or elsewhere, seems inevitable without a comprehensive settlement. The failure of the League, therefore, does constitute a memento for the United Nations.

The Control Regime and its Maintenance

The means with which the control and destruction regimes were carried out in the two cases are basically very similar. They are both based on absolute intrusiveness giving inspectors the right of access anywhere at any time. The technological means of the present day, however, gives inspectors advantages which lacked seventy years ago: satellites, U-2 surveillance aircraft, helicopters, sophisticated cameras, indication and decontamination equipment, secure telephone through satellite links with headquarters, etc.

The main difference rests in the implementing agencies. Whereas the Inter-Allies Control Commission of Versailles was made up of representatives of the victorious states, the disarmament of Iraq was entrusted to a subsidiary organ of the Security Council. Its Chairman with full decision-making powers and various members of its staff have been recruited from other states than those which actually participated in the coalition authorised by Resolution 678 (1990). This is a further illustration that the activities under Resolution 687 are not punitive in nature, but rather the impartial imposition of the terms established by the Security Council. If they become punitive it is by Iraq's own choice not to cooperate.

The regime also requires the continued support by the Security Council if it is to be maintained successfully and long-term monitoring plans implemented. While Resolution 687 was not taken unanimously, the resolve of the Council seems to have strengthened over time. Resolutions 707 and 715 were taken without a vote with the concurrence, even of such states as Yemen and Cuba. The support for Iraq in the General Assembly has been nonexistent.

Technically speaking, it can of course be argued that the measures against Iraq could be maintained as long as the permanent five members of the Security Council agree. In fact, however, it would be politically difficult if a substantive minority in the Council or in the General Assembly would favour a slackening of the imposition of the cease-fire terms. However, no such opposition has materialised.

The reason for this could only be guessed at. It seems, however, safe to assume that the discovery of an advanced nuclear weapons programme, undertaken clandestinely by

a member of the Non-Proliferation Treaty, made a considerable impact on such Governments that might otherwise harbour sympathies for Iraq. Another reason might actually be the fact that the Iraqi regime - the aggressor in two consecutive wars - is still in place and still committing atrocities against its own population.

Had there been a change of leadership - and such a change might not necessarily have been much for the better - it would have been logical to expect a number of states, particularly those in the region, to argue in favour of giving such a leadership the benefit of the doubt by lifting the sanctions.

However, even ten months after the cease-fire, no Arab Government can criticise strict measures against the Iraqi regime until the UN is satisfied that the cease-fire conditions have been carried out.

In spite - or because of - its concealment and obstructionist efforts and its cruel policy to impose starvation on its own population rather than yielding to the conditions for the sale of Iraqi oil, laid down in Security Council Resolution 712 (1991), the Iraqi regime is today paradoxically a guarantor of its own disarmament. As long as it rests in place, it can be assumed that the United Nations will have the necessary world-wide political support to identify and destroy the relevant items under Security Council Resolution 687 (1991).

Locarno is still far away from Baghdad.

Conclusion

Serge Sur

The various studies that precede stand by themselves. There is no question of going over them again or of attempting to draw any systematic conclusions from their juxtaposition. The analytical approach, which individualises and specifically addresses each particular situation, is entirely suited to the particular case. "From Versailles to Baghdad" provides a factual and temporal framework but does not make it possible to discern any real homogeneity or continuity among the instruments examined. Thus the much-maligned Treaty of Versailles not only brought peace to a series of belligerents, but also created the first major universal international organisation, the League of Nations, whereas resolution 687 is a unilateral act by a pre-existing international body, a measure which restored a legal situation violated by the State on which the resolution was imposed.

The reference to disarmament or to arms control certainly provides a sounder basis for a comparison. It is striking that in the twentieth century most instruments, peace treaties or other technical means of restoring peace comprise arms-control measures, thereby providing us with a parallel path to negotiated disarmament, which has been the basis of the undertaking from the 1960s until the present. The latter is based on treaties drawn up in the absence of any conflict, within a multilateral, regional or bilateral framework. It is above all this contractual approach that captures the attention. No doubt by comparing the essential features of these contractual techniques with the instruments adopted subsequent to wars it will be possible better to appreciate their originality, and perhaps to draw certain lessons from them.

However, we should be careful not to go too far in this direction. It will probably not be possible to come up with a standard "peace treaty" based on an identical logic from these disparate situations. Moreover, we are occasionally completely outside the framework of a peace treaty. The situation of Germany after the Second World War developed and underwent deep change without it having been possible to sign a peace treaty, and the absence of a treaty was one of the cornerstones of European security and of its evolution during the following decades. Similarly, resolution 687 is not a peace treaty between belligerents but an international act imposed by the Security Council on a Member State by virtue of the Charter of the United Nations. We must therefore take into account this heterogeneity and avoid any simplistic parallels in order to compare the post-conflict regimes with those of a more clearly marked preventive and contractual nature. In this respect, one should not attach too much importance to formal or purely legal aspects.

Similarly, appearances notwithstanding, the differences lie in the circumstances much more than in the basic problems. In any case, it is possible to discern a number of common features in the disarmament venture, regardless of the technique employed. This intrinsic logic of disarmament or of arms limitation - the two terms may be used indiscriminately in so general an approach, together with the term "arms control" - provides an undeniable common thread. This is occasionally apparent for negative reasons in so far as failure to respect the basic requirements of the venture helps to account for the failure of some attempts, even if it is not the only and sometimes not even the main reason for their loss of effectiveness.

Post-war regimes are marked by the principal features of the objective circumstances that result from conflicts much more than by any specific techniques or a standard "peace treaty". Thus, it is fashionable to criticise the Treaty of Versailles, which is compared to a "diktat", to use a term of which Hitler was fond. However, was the situation of post-1945 Germany, without a peace treaty, any better? Was not Versailles less severe towards Germany than Potsdam? Is there any peace treaty between victors and vanquished that is not a burden for the latter? Undeniably the symbolic burden of an imposed treaty may perhaps weigh more heavily than the obligations which would in any case be imposed in practice. In short, peace treaties are criticised for their discriminatory and punitive aspects, which are said to account for their vulnerability, their precariousness and, in the last analysis, their transitory nature. These features allegedly contrast with those of contractual disarmament, carried out preventively, in the absence of any conflict and which provides a balanced and reciprocal response to the interests of each of the parties. Without denying that such differences, or at least some of them, do exist, it is nonetheless necessary to put them into perspective when disarmament is at stake. Above all, it is necessary to emphasise the basic unifying factor of the disarmament process regardless of its various techniques, which is a prerequisite for its success and which is based on the link between disarmament and security.

* * *

As far as the punitive or sanctionary nature of peace treaties towards vanquished countries is concerned, an aspect that allegedly reflects an inevitable logic of vae victis far removed from the moral justifications of the victors - which Simone Weil, with her intense and intuitive sense of justice described as "justice, that fugitive from the victors' camp" - it is necessary to set arms control or reduction regimes in their proper context.

In fact, it is not possible to consider these measures as genuine sanctions, in the sense usually given to the word by jurists. For there to be a sanction in the strict sense of the word there must first of all have been a violation of an obligation, a judicial or quasi-judicial examination of the situation by an independent body and the application of punitive measures within a pre-defined and lawful framework, and lastly the measures must be designed to put an end to behaviour whose mere existence constitutes a fault. For example, this inspiration marked the Treaty of Versailles when it made provision for the trial of the Kaiser, a trial which in actual fact never took place. It was also apparent in the Nürnberg or Tokyo trials. However, both in the case of the first treaties considered and of resolution 687, and in particular with regard to arms control measures, neither their nature, nor their aim nor their procedure correspond to the rationale of sanctions. They are in actual fact measures directed towards the future and not towards the past, towards prevention and not towards repression, and they are moreover based on considerations of political and strategic advantage, and not on the application of a pre-established legal regime.

The term "sanctions" has indeed come into common use, especially in the media. However, it is totally imprecise and creates more confusion than clarity. It has repressive or disciplinary connotations, whereas the measures adopted are simply security

measures or safeguards, precautions for the future designed to prevent the recurrence of aggressive behaviour. Thus, punitive measures against Iraq would have required the determination of the criminal responsibility of the country's leaders and at the very least their political elimination. In contrast, their maintenance in power excludes such a punitive regime and only permits the adoption of security measures, among which disarmament measures are of key importance. Measures for the limitation, reduction, elimination or prohibition of weapons should therefore be seen not so much as punitive measures as preventive ones, which brings them into line with the rationale of contractual disarmament. However, it is true that they continued to be perceived as a form of punishment, particularly by the State on which they are imposed, and this interpretation makes them harder to accept. However, is it not the discriminatory nature of the measures rather than their content that fuels this interpretation?

The discriminatory aspect is *a priori* less questionable. It even constitutes a dominant feature of the regimes imposed on the vanquished after conflicts, in contrast to contractual disarmament. It is even more pronounced if it is given legal form, such as a treaty that the vanquished State is unable to negotiate, or a resolution directed towards a simple party.

Here again, it is necessary to put things into perspective, and the discrimination is undoubtedly less pronounced than it appears. It is often more apparent than real, at least in so far as disarmament is concerned. In actual fact the victor States themselves wish to disarm as quickly as possible, and the obligations imposed on their former adversaries are at one and the same time a requirement and a guarantee for their own disarmament, carried out unilaterally. Thus the Treaty of Versailles imposed specific restrictions and constraints on Germany with regard to chemical weapons, which could be justified by the massive first use of such weapons by Germany during the conflict. However, a few years later the entire international community undertook to give up the use of chemical weapons through the Geneva Protocol. Thus as a whole the Treaty of Versailles and the Geneva Protocol tend to establish a prohibitory regime whose discriminatory nature towards Germany is considerably mitigated. Similarly, efforts were made within the framework of the League of Nations to achieve more general disarmament, which would also contribute towards mitigating the discrimination. However, as we are aware, this gradual transformation of an imposed regime principally directed against one State into a contractual and mutually binding regime was not possible. Who can assert that the provisions on disarmament contained in the Treaty of Versailles were responsible? Similarly, is it possible for Iraq to consider that it is subject to a discriminatory regime with regard to disarmament? Discrimination does not depend on the fact that a particular country is given special treatment. Such special treatment may be justified by the specific circumstances of the State concerned, by its behaviour and by its dangerousness, as objectively demonstrated. Non-discrimination is not the blind application of mechanical equality, but the examination, on the basis of identical criteria, of situations that are by their very nature particular and may thus lead to different responses.

The main argument that may be brought to bear against disarmament measures imposed after conflicts is a *de facto* consideration: although they were adopted for eternity, they have been short-lived, and in one way or another they have often been

eroded, circumvented, impossible to apply, neglected, or transformed. Yet again, each regime has its own history, even if the transformation of a regime that is dictated into a contractual and mutually binding one remains fairly exceptional. Are the allegedly punitive and discriminatory ambitions of disarmament measures responsible for their rapid failure? Or do they fail, on the contrary, because they are not punitive and discriminatory enough? By being insufficiently punitive, they allow the State sufficient means to call its obligations into question, and by being insufficiently discriminatory, they deprive the other States of the means of ensuring they are complied with, including by means of coercive measures. Thus it is rather the contradiction between the perception - the frustration felt by the vanquished countries - and the reality - the absence of means and procedure available to the victors - that allegedly accounts for their being rapidly called into question.

One might add to this gap between perception and reality a more objective factor, although it links up with a deeper explanation: disarmament measures can only prosper if they seem not only compatible with the security of those to whom they apply, but moreover a contribution to their security, an improvement in terms of security. Despite appearances, this consideration is not absent from the post-conflict regime. However, they may perhaps fail to take it sufficiently into account.

* * *

There are cases in which consideration is given to the security of all involved. The previous chapters contain a number of illustrations. In the case of resolution 687, in particular, there is a manifest concern not to violate Iraq's integrity, or even to set certain measures within a broader context of regional security. In other cases, as in that of Germany after the Second World War, it was also concern with security and the transformation of the international setting that was to account for the rejection of imposed disarmament measures. The regime of occupation of Japan and Japan's unilateral decision not to rearm are a further illustration. These measures were to make it possible to do without a monitoring system in the San Francisco Peace Treaty. It is thus clear that security is the driving force behind disarmament. In this respect the close relationship between post-conflict disarmament and contractual disarmament is clear. The techniques differ but the fundamental imperatives remain. However, security plays both on armament and on disarmament, sometimes successively, sometimes simultaneously. After all, if we can argue that post-conflict regimes have rarely survived, we can also point out that the contractual disarmament process has gone hand in hand with a vigorous arms race. The accumulation of contractual mutually binding instruments has not prevented an even more rapid accumulation of weapons. And is not the present situation, with rapid and genuine disarmament, at least as far as the former East-West setting is concerned, more the result of unilateral and highly asymmetrical measures, with diminished or at least postponed reciprocity, than of contractual instruments? In many respects, this situation is evocative of a post-war period without a war, and the disarmament techniques employed must innovate if they are to respond to an accelerated process.

Thus, the major difference between these contractual or unilateral techniques and imposed regimes does not lie substantially in the consideration they give to security. It lies, in the first case, in the fact that each partner remains the judge of his own security requirements and himself makes the choice or compromises between security and arms limitation, whereas in the second case the choice is made by others. Vanquished countries have to accept a concept of their own security that is imposed from outside. There is a symbolic dimension to this difference, although it carries the full weight of reality. However, an independent State must first and foremost be able itself to ensure its security or to decide of its own free will how it will ensure its security, for example by joining a system of alliances or collective security. One might thus conclude that the survival of disarmament regimes depends on a fundamental requirement much more than on the circumstances that give rise to them: those that survive correspond to the security constraints of the countries concerned as perceived by each of them, the others are doomed to disappear. This requirement suffices and overrides the techniques that establish the regimes, and in this respect the disarmament process may demonstrate considerable flexibility. There is nothing to prevent obligations that were initially imposed from undergoing a contractual transformation, to prevent unilateral measures from becoming permanent or, on the contrary, to prevent solemnly concluded treaties from offering illusory guarantees.

Post-conflict situations often provide an opportunity, or raise the need, to rethink a stable security order. However, there is frequently a gap between the efforts deliberately made, the ambitions set and the precariousness of historical circumstances. Only rarely do these efforts anticipate a real world that finally catches up with them. This is nevertheless what is happening in the case of the Charter of the United Nations, which is in essence the authentic universal post-Second World War peace treaty. The Charter, which is a futuristic text, is only achieving gradually the purpose that inspired it - and moreover it contains only a few provisions on disarmament. It rightly emphasised security and the equal right of each State to security, even if the responsibilities assumed by the Members in that area are differentiated. The Charter has demonstrated both the validity of its principles, the strength of its mechanisms and the ability of its organs to adjust to uncommon situations, as in the case of the Gulf. Nowadays regional approaches appear to prevail, even with regard to disarmament. It is certainly within the framework of the Charter, through the development of its inherent potential and through respect for its universal principles, that the regionalisation of security problems and disarmament will be able to prosper - beyond Versailles and beyond Baghdad.

Annexes

Annex I

The Treaty of Versailles: Portions Dealing with German Disarmament, June 28, 1919[1]

PART V.
MILITARY, NAVAL AND AIR CLAUSES.

In order to render possible the initiation of a general limitation of the armaments of all nations, Germany undertakes strictly to observe the military, naval and air clauses which follow.

SECTION I.
MILITARY CLAUSES.

CHAPTER I.
EFFECTIVES AND CADRES OF THE GERMAN ARMY.

Article 159.

The German military forces shall be demobilised and reduced as prescribed hereinafter.

Article 160.

(I) By a date which must not be later than March 31, 1920, the German Army must not comprise more than seven divisions of infantry and three divisions of cavalry.

After that date the total number of effectives in the Army of the States constituting Germany must not exceed one hundred thousand men, including officers and establishments of depots. The Army shall be devoted exclusively to the maintenance of order within the territory and to the control of the frontiers.

The total effective strength of officers, including the personnel of staffs, whatever their composition, must not exceed four thousand.

(2) Divisions and Army Corps headquarters staffs shall be organised in accordance with Table No. I annexed to this Section.

The number and strengths of the units of infantry, artillery, engineers, technical services and troops laid down in the aforesaid Table constitute maxima which must not be exceeded.

The following units may each have their own depot:

An Infantry regiment;
A Cavalry regiment;
A regiment of Field Artillery;
A battalion of Pioneers.

(3) The divisions must not be grouped under more than two army corps headquarters staffs.

The maintenance or formation of forces differently grouped or of other organisations for the command of troops or for preparation for war is forbidden.

The Great German General Staff and all similar organisations shall be dissolved and may not be reconstituted in any form.

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[1] Fred L. Israel, ed., *Major Peace Treaties of Modern History, 1648-1967* (New York: Chelsea House in association with McGraw-Hill, 1967), Vol. II, pp. 1363-1383.

The officers, or persons in the position of officers, in the Ministries of War in the different States in Germany and in the Administrations attached to them, must not exceed three hundred in number and are included in the maximum strength of four thousand laid down in the third sub-paragraph of paragraph (I) of this Article.

Article 161.

Army administrative services consisting of civilian personnel not included in the number of effectives prescribed by the present Treaty will have such personnel reduced in each class to one-tenth of that laid down in the Budget of 1913.

Article 162.

The number of employees or officials of the German States, such as customs officers, forest guards and coastguards, shall not exceed that of the employees or officials functioning in these capacities in 1913.

The number of gendarmes and employees or officials of the local or municipal police may only be increased to an extent corresponding to the increase of population since 1913 in the districts or municipalities in which they are employed.

These employees and officials may not be assembled for military training.

The reduction of the strength of the German military forces as provided for in Article 160 may be effected gradually in the following manner:

Within three months from the coming into force of the present Treaty the total number of effectives must be reduced to 200,000 and the number of units must not exceed twice the number of those laid down in Article 160.

At the expiration of this period, and at the end of each subsequent period of three months, a Conference of military experts of the Principal Allied and Associated Powers will fix the reductions to be made in the ensuing three months, so that by March 31, 1920, at the latest the total number of German effectives does not exceed the maximum number of 100,000 men laid down in Article 160. In these successive reductions the same ratio between the number of officers and of men, and between the various kinds of units, shall be maintained as is laid down in that Article.

CHAPTER II.
ARMAMENT, MUNITIONS AND MATERIAL.

Article 164.

Up till the time at which Germany is admitted as a member of the League of Nations the German Army must not possess an armament greater than the amounts fixed in Table No. II annexed to this Section, with the exception of an optional increase not exceeding one-twentyfifth part for small arms and one-fiftieth part for guns, which shall be exclusively used to provide for such eventual replacements as may be necessary.

Germany agrees that after she has become a member of the League of Nations the armaments fixed in the said Table shall remain in force until they are modified by the Council of the League. Furthermore she hereby agrees strictly to observe the decisions of the Council of the League on this subject.

Article 165.

The maximum number of guns, machine guns, trench-mortars, rifles and the amount of ammunition and equipment which Germany is allowed to maintain

during the period between the coming into force of the present Treaty and the date of March 31, 1920, referred to in Article 160, shall bear the same proportion to the amount authorized in Table No. III annexed to this Section as the strength of the German Army as reduced from time to time in accordance with Article 163 bears to the strength permitted under Article 160.

Article 166.

At the date of March 31, 1920, the stock of munitions which the German Army may have at its disposal shall not exceed the amounts fixed in Table No. III annexed to this Section.

Within the same period the German Government will store these stocks at points to be notified to the Governments of the Principal Allied and Associated Powers. The German Government is forbidden to establish any other stocks, depots or reserves of munitions.

Article 167.

The number and calibre of the guns constituting at the date of the coming into force of the present Treaty the armament of the fortified works, fortresses, and any land or coast forts which Germany is allowed to retain must be notified immediately by the German Government to the Governments of the Principal Allied and Associated Powers, and will constitute maximum amounts which may not be exceeded.

Within two months from the coming into force of the present Treaty, the maximum stock of ammunition for these guns will be reduced to, and maintained at, the following uniform rates:—fifteen hundred rounds per piece for those the calibre of which is 10.5 cm. and under: five hundred rounds per piece for those of higher calibre.

Article 168.

The manufacture of arms, munitions, or any war material, shall only be carried out in factories or works the location of which shall be communicated to and approved by the Governments of the Principal Allied and Associated Powers, and the number of which they retain the right to restrict.

Within three months from the coming into force of the present Treaty, all other establishments for the manufacture, preparation, storage or design of arms, munitions, or any war material whatever shall be closed down. The same applies to all arsenals except those used as depots for the authorised stocks of munitions. Within the same period the personnel of these arsenals will be dismissed.

Within two months from the coming into force of the present Treaty German arms, munitions and war material, including anti-aircraft material, existing in Germany in excess of the quantities allowed, must be surrendered to the Governments of the Principal Allied and Associated Powers to be destroyed or rendered useless. This will also apply to any special plant intended for the manufacture of military material, except such as may be recognised as necessary for equipping the authorised strength of the German army.

The surrender in question will be effected at such points in German territory as may be selected by the said Governments.

Within the same period arms, munitions and war material, including anti-aircraft material, of origin other than German, in whatever state they may be, will be delivered to the said Governments, who will decide as to their disposal.

Arms and munitions which on account of the successive reductions in the strength of the German army become in excess of the amounts authorised by Tables II and III annexed to this Section must be handed over in the manner laid down above within such periods as may be decided by the Conferences referred to in Article 163.

Article 170.

Importation into Germany of arms, munitions and war material of every kind shall be strictly prohibited.

The same applies to the manufacture for, and export to, foreign countries of arms, munitions and war material of every kind.

Article 171.

The use of asphyxiating, poisonous or other gases and all analogous liquids, materials or devices being prohibited, their manufacture and importation are strictly forbidden in Germany.

The same applies to materials specially intended for the manufacture, storage and use of the said products or devices.

The manufacture and the importation into Germany of armoured cars, tanks and all similar constructions suitable for use in war are also prohibited.

Article 172.

Within a period of three months from the coming into force of the present Treaty, the German Government will disclose to the Governments of the Principal Allied and Associated Powers the nature and mode of manufacture of all explosives, toxic substances or other like chemical preparations used by them in the war or prepared by them for the purpose of being so used.

CHAPTER III.
RECRUITING AND MILITARY TRAINING

Article 173.

Universal compulsory military service shall be abolished in Germany.

The German Army may only be constituted and recruited by means of voluntary enlistment.

Article 174.

The period of enlistment for non-commissioned officers and privates must be twelve consecutive years.

The number of men discharged for any reason before the expiration of their term of enlistment must not exceed in any year five per cent. of the total effectives fixed by the second subparapgrah of paragraph (I) of Article 160 of the present Treaty.

Article 175.

The officers who are retained in the Army must undertake the obligation to serve in it up to the age of forty-five years at least.

Officers newly appointed must undertake to serve on the active list for twenty-five consecutive years at least.

Officers who have previously belonged to any formations whatever of the Army, and who are not retained in the units allowed to be maintained, must not take part in any military exercise whether theoretical or practical, and will not be under any military obligations whatever.

The number of officers discharged for any reason before the expiration of their term of service must not exceed in any year five per cent. of the total effectives of officers provided for in the third sub-paragraph (I) of Article 160 of the present Treaty.

Article 176.

On the expiration of two months from the coming into force of the present Treaty there must only exist in Germany the number of military schools which is absolutely indispensable for the recruitment of the officers of the units allowed. These schools will be exclusively intended for the recruitment of officers of each arm, in the proportion of one school per arm.

The number of students admitted to attend the courses of the said schools will be strictly in proportion to the vacancies to be filled in the cadres of officers. The students and the cadres will be reckoned in the effectives fixed by the second and third subparagraphs of paragraph (I) of Article 160 of the present Treaty.

Consequently, and during the period fixed above, all military academies or similar institutions in Germany, as well as the different military schools for officers, student officers (*Aspiranten*), cadets, non-commissioned officers or student non-commissioned officers (*Aspiranten*), other than the schools above provided for, will be abolished.

Article 177.

Educational establishments, the universities, societies of discharged soldiers, shooting or touring clubs and, generally speaking, associations of every description, whatever be the age of their members, must not occupy themselves with any military matters.

In particular they will be forbidden to instruct or exercise their members or to allow them to be instructed or exercised, in the profession or use of arms.

These societies, associations, educational establishments and universities must have no connection with the Ministries of War or any other military authority.

Article 178.

All measures of mobilisation or appertaining to mobilisation are forbidden.

In no case must formations, administrative services or General Staffs include supplementary cadres.

Article 179.

Germany agrees, from the coming into force of the present Treaty, not to accredit nor to send to any foreign country any military, naval or air mission, nor to allow any such mission to leave her territory, and Germany further agrees to take appropriate measures to prevent German nationals from leaving her territory to become enrolled in the Army, Navy or Air service of any foreign Power, or to be attached to such Army, Navy or Air Service for the purpose of assisting in the military, naval or air training thereof, or otherwise for the purpose of giving military, naval or air instruction in any foreign country.

The Allied and Associated Powers agree, so far as they are concerned, from the coming into force of the present Treaty, not to enrol in nor to attach to their armies or naval or air forces any German national for the purpose of

assisting in the military training of such armies or naval or air forces, or otherwise to employ any such German national as military, naval or aeronautic instructor.

The present provision does not, however, affect the right of France to recruit for the Foreign Legion in accordance with French military laws and regulations.

CHAPTER IV.
FORTIFICATIONS.

Article 180.

All fortified works, fortresses and field works situated in German territory to the west of a line drawn fifty kilometres to the east of the Rhine shall be disarmed and dismantled.

Within a period of two months from the coming into force of the present Treaty such of the above fortified works, fortresses and field works as are situated in territory not occupied by Allied and Associated troops shall be disarmed, and within a further period of four months they shall be dismantled. Those which are situated in territory occupied by Allied and Associated troops shall be disarmed and dismantled within such periods as may be fixed by the Allied High Command.

The construction of any new fortification, whatever its nature and importance, is forbidden in the zone referred to in the first paragraph above.

The system of fortified works of the southern and eastern frontiers of Germany shall be maintained in its existing state.

TABLE NO. I

State and Establishment of Army Corps Headquarters Staffs and of Infantry and Cavalry Divisions.

These tabular statements do not form a fixed establishment to be imposed on Germany, but the figures contained in them (number of units and strengths) represent maximum figures, which should not in any case be exceeded.

I. *Army Corps Headquarters Staffs.*

Unit	Maximum Number Authorised	Maximum Strength of each Unit	
		Officers	N. C. O.s and Men
Army Corps Headquarters Staff	2	30	150
Total for Headquarters Staff		60	300

II. *Establishment of an Infantry Division.*

Unit	Maximum Number of such Units in a Single Division	Maximum Strength of each Unit	
		Officers	N. C. O.s and Men
Headquarters of an infantry division	1	25	70
Headquarters of divisional infantry	1	4	30

Headquarters of divisional artillery	1	4	30
Regiment of infantry	3	70	2,300
(Each regiment comprises 3 battalions of infantry. Each battalion comprises 3 companies of infantry and 1 machine-gun company.)			
Trench mortar company	3	6	150
Divisional squadron	1	6	150
Field artillery regiment	1	85	1,300
(Each regiment comprises 3 groups of artillery. Each group comprises 3 batteries.)			
Pioneer battalion	1	12	400
(This battalion comprises 2 companies of pioneers, 1 pontoon detachment, 1 searchlight section.)			
Signal detachment	1	12	300
(This detachment comprises 1 telephone detachment, 1 listening section, 1 carrier-pigeon section.)			
Divisional medical service	1	20	400
Parks and convoys	----------	14	800
Total for infantry division	----------	410	10,830

III. *Establishment of a Cavalry Division.*

Headquarters of a cavalry division	1	15	50
Cavalry regiment	6	40	800
(Each regiment comprises 4 squadrons.)			
Horse artillery group (3 batteries)	1	20	400
Total for cavalry division	----------	275	5,250

TABLE NO. II

TABULAR STATEMENT OF ARMAMENT ESTABLISHMENT FOR A MAXIMUM OF 7 INFANTRY DIVISIONS, 3 CAVALRY DIVISIONS, AND 2 ARMY CORPS HEADQUARTERS STAFFS.

Material	Infantry Division (1)	For 7 Infantry Divisions (2)	Cavalry Division (3)	For 3 Cavalry Divisions (4)	For 2 Army Corps Headquarters Staffs (5)	Total of Columns 2, 4 and 5 (6)
Rifles	12,000	84,000	----------	----------	This establishment must be drawn from the increased armaments of the divisional infantry.	84,000
Carbines	----------	----------	6,000	18,000		18,000
Heavy machine-guns	108	756	12	36		792
Light machine-guns	162	1,134	----------	----------		1,134
Medium trench mortars	9	63	----------	----------		63
Light trench mortars	27	189	----------	----------		189
7.7 cm. guns	24	168	12	36		204
10.5 cm. howitzers	12	84	----------	----------		84

TABLE NO. III

MAXIMUM STOCKS AUTHORISED.

Material	Maximum number of arms authorised	Establishment per unit	Maximum totals
		Rounds	*Rounds*
Rifles	84,000	----------	----------
Carbines	18,000	400	40,800,000
Heavy machine-guns	792	----------	----------
Light machine-guns	1,134	8,000	15,408,000
Medium trench mortars	63	400	25,200
Light trench mortars	189	800	151,200
Field Artillery:			
7.7 cm. guns	204	1,000	204,000
10.5 cm. howitzers	84	800	67,200

SECTION II.
NAVAL CLAUSES.

Article 181.

After the expiration of a period of two months from the coming into force of the present Treaty the German naval forces in commission must not exceed:

6 battleships of the *Deutschland* or *Lothringen* type,
6 light cruisers,
12 destroyers,
12 torpedo boats,

or an equal number of ships constructed to replace them as provided in Article 190.

No submarines are to be included.

All other warships, except where there is provision to the contrary in the present Treaty, must be placed in reserve or devoted to commercial purposes.

Article 182.

Until the completion of the minesweeping prescribed by Article 193 Germany will keep in commission such number of minesweeping vessels as may be fixed by the Governments of the Principal Allied and Associated Powers.

Article 183.

After the expiration of a period of two months from the coming into force of the present Treaty, the total personnel of the German Navy, including the manning of the fleet, coast defences, signal stations, administration and other land services, must not exceed fifteen thousand, including officers and men of all grades and corps.

The total strength of officers and warrant officers must not exceed fifteen hundred.

Within two months from the coming into force of the present Treaty the personnel in excess of the above strength shall be demobilised.

No naval or military corps or reserve force in connection with the Navy may be organised in Germany without being included in the above strength.

Article 184.

From the date of the coming into force of the present Treaty all the German surface warships which are not in German ports cease to belong to Germany, who renounces all rights over them. Vessels which, in compliance with the Armistice of November 11, 1918, are now interned in the ports of the Allied and Associated powers are declared to be finally surrendered.

Vessels which are now interned in neutral ports will be there surrendered to the Governments of the Principal Allied and Associated Powers. The German Government must address a notification to that effect to the neutral Powers on the coming into force of the present Treaty.

Article 185.

Within a period of two months from the coming into force of the present Treaty the German surface warships enumerated below will be surrendered to the Governments of the Principal Allied and Associated Powers in such Allied ports as the said powers may direct.

These warships will have been disarmed as provided in Article XXIII of the Armistice of November 11, 1918. Nevertheless they must have all their guns on board.

Battleships.

Oldenburg.	*Posen.*
Thuringen.	*Westfalen.*

Battleships.

Ostfriesland.	*Rheinland.*
Helgoland.	*Nassau.*

Light Cruisers

Stettin.	*Stralsund.*
Danzig.	*Augsburg.*
München.	*Kolberg.*
Lübeck.	*Stuttgart.*

And, in addition, forty-two modern destroyers and fifty modern torpedo boats, as chosen by the Governments of the Principal Allied and Associated Powers.

Article 186.

On the coming into force of the present Treaty the German Government must undertake, under the supervision of the Governments of the Principal Allied and Associated Powers, the breaking up of all the German surface warships now under construction.

Article 187.

The German auxiliary cruisers and fleet auxiliaries enumerated below will be disarmed and treated as merchant ships.

Interned in Neutral Countries:

Berlin.	*Seydlitz.*
Santa Fé.	*Yorck.*

In Germany:

Ammon.	*Fürst Bülow.*
Answald.	*Gertrud.*
Bosnia.	*Kigoma.*
Cordoba.	*Rugia.*
Cassel.	*Santa Elena.*
Dania.	*Schleswig.*
Rio Negro.	*Möwe.*
Rio Pardo.	*Sierra Ventana.*
Santa Cruz.	*Chemnitz.*
Schwaben.	*Emil Georg von Strauss.*
Solingen.	*Habsburg.*
Steigerwald.	*Meteor.*
Franken.	*Waltraute.*
Gundomar.	*Scharnhorst.*

Article 188.

On the expiration of one month from the coming into force of the present Treaty all German submarines, submarine salvage vessels and docks for submarines, including the tubular dock, must have been handed over to the Governments of the Principal Allied and Associated Powers.

Such of these submarines, vessels and docks as are considered by the said Governments to be fit to proceed under their own power or to be towed shall be taken by the German Government into such Allied ports as have been indicated.

The remainder, and also those in course of construction, shall be broken up entirely by the German Government under the supervision of the said Governments. The breaking-up must be completed within three months at the most after the coming into force of the present Treaty.

Article 189.

Articles, machinery and material arising from the breaking-up of German warships of all kinds, whether surface vessels or submarines, may not be used except for purely industrial or commercial purposes.

They may not be sold or disposed of to foreign countries.

Article 190.

Germany is forbidden to construct or acquire any warships other than those intended to replace the units in commission provided for in Article 181 of the present Treaty.

The warships intended for replacement purposes as above shall not exceed the following displacement:

Armoured ships	10,000 tons,
Light cruisers	6,000 tons,
Destroyers	800 tons,
Torpedo boats	200 tons.

Except where a ship has been lost, units of the different classes shall only be replaced at the end of a period of twenty years in the case of battleships and cruisers, and fifteen years in the case of destroyers and torpedo boats, counting from the launching of the ship.

Article 191.

The construction or acquisition of any submarine, even for commercial purposes, shall be forbidden in Germany.

Article 192.

The warships in commission of the German fleet must have on board or in reserve only the allowance of arms, munitions and war material fixed by the Principal Allied and Associated Powers.

Within a month from the fixing of the quantities as above, arms, munitions and war material of all kinds, including mines and torpedoes, now in the hands of the German Government and in excess of the said quantities, shall be surrendered to the Governments of the said Powers at places to be indicated by them. Such arms, munitions and war material will be destroyed or rendered useless.

All other stocks, depots or reserves of arms, munitions or naval war material of all kinds are forbidden.

The manufacture of these articles in German territory for, and their export to, foreign countries shall be forbidden.

Article 193.

On the coming into force of the present Treaty Germany will forthwith sweep up the mines in the following areas in the North Sea to the eastward of longitude 4° 00′ E. of Greenwich:

(I) Between parallels of latitude 53° 00′ N. and 59° 00′ N.; (2) To the northward of latitude 60° 30′ N.

Germany must keep these areas free from mines.

Germany must also sweep and keep free from mines such areas in the Baltic as may ultimately be notified by the Governments of the Principal Allied and Associated Powers.

Article 194.

The personnel of the German Navy shall be recruited entirely by voluntary engagements entered into for a minimum period of twenty-five consecutive years for officers and warrant officers; twelve consecutive years for petty officers and men.

The number engaged to replace those discharged for any reason before the expiration of their term of service must not exceed five per cent. per annum of the totals laid down in this Section (Article 183).

The personnel discharged from the Navy must not receive any kind of naval or military training or undertake any further service in the Navy or Army.

Officers belonging to the Germany Navy and not demobilised must engage to serve till the age of forty-five, unless discharged for sufficient reasons.

No officer or man of the German mercantile marine shall receive any training in the Navy.

Article 195.

In order to ensure free passage into the Baltic to all nations, Germany shall not erect any fortifications in the area comprised between latitudes 55° 27′ N. and 54° 00′ N. and longitudes 9° 00′ E. and 16° 00′ E. of the meridian of Greenwich, nor instal any guns commanding the maritime routes between the North Sea and the Baltic. The fortifications now existing in this area shall be demolished and the guns removed under the supervisions of the Allied Governments and in periods to be fixed by them.

The German Government shall place at the disposal of the Governments of the Principal Allied and Associated Powers all hydrographical information now in its possession concerning the channels and adjoining waters between the Baltic and the North Sea.

Article 196.

All fortified works and fortifications, other than those mentioned in Section XIII (Heligoland) of Part III (Political Clauses for Europe) and in Article 195, now established within fifty kilometres of the German coast or on German islands off that coast shall be considered as of a defensive nature and may remain in their existing condition.

No new fortifications shall be constructed within these limits. The armament of these defences shall not exceed, as regards the number and calibre of guns, those in position at the date of the coming into force of the present Treaty. The German Government shall communicate forthwith particulars thereof to all the European Governments.

On the expiration of a period of two months from the coming into force of the present Treaty the stocks of ammunition for these guns shall be reduced to and maintained at a maximum figure of fifteen hundred rounds per piece for calibres of 4.1-inch and under, and five hundred rounds per piece for higher calibres.

Article 197.

During the three months following the coming into force of the present Treaty the German high-power wireless telegraphy stations at Nauen, Hanover and Berlin shall not be used for the transmission of messages concerning naval, military or political questions of interest to Germany or any State which has been allied to Germany in the war, without the assent of the Governments of the Principal Allied and Associated Powers. These stations may be used for commercial purposes, but only under the supervision of the said Governments, who will decide the wavelength to be used.

During the same period Germany shall not build any more high-power wireless telegraphy stations in her own territory or that of Austria, Hungary, Bulgaria or Turkey.

SECTION III.
AIR CLAUSES.

Article 198.

The armed forces of Germany must not include any military or naval air forces.

Germany may, during a period not extending beyond October 1, 1919, maintain a maximum number of one hundred seaplanes or flying boats, which shall be exclusively employed in searching for submarine mines, shall be furnished with the necessary equipment for this purpose, and shall in no case carry arms, munitions or bombs of any nature whatever.

In addition to the engines installed in the seaplanes or flying boats above mentioned, one spare engine may be provided for each engine of each of these craft.

No dirigible shall be kept.

Article 199.

Within two months from the coming into force of the present Treaty the personnel of air forces on the rolls of the German land and sea forces shall be demobilised. Up to October 1, 1919, however, Germany may keep and maintain a total number of one thousand men, including officers, for the whole of the cadres and personnel, flying and non-flying, of all formations and establishments.

Article 200.

Until the complete evacuation of German territory by the Allied and Associated troops, the aircraft of the Allied and Associated Powers shall enjoy in Germany freedom of passage through the air, freedom of transit and of landing.

Article 201.

During the six months following the coming into force of the present Treaty, the manufacture and importation of aircraft, parts of aircraft, engines for aircraft, and parts of engines for aircraft, shall be forbidden in all German territory.

Article 202.

On the coming into force of the present Treaty, all military and naval aeronautical material, except the machines mentioned in the second and third paragraphs of Article 198, must be delivered to the Governments of the Principal Allied and Associated Powers.

Delivery must be effected at such places as the said Governments may select, and must be completed within three months.

In particular, this material will include all items under the following heads which are or have been in use or were designed for warlike purposes:

Complete aeroplanes and seaplanes, as well as those being manufactured, repaired or assembled.

Dirigibles able to take the air, being manufactured, repaired or assembled.

Plant for the manufacture of hydrogen.

Dirigible sheds and shelters of every kind for aircraft.

Pending their delivery, dirigibles will, at the expense of Germany, be maintained inflated with hydrogen; the plant for the manufacture of hydrogen, as well as the sheds for dirigibles, may, at the discretion of the said Powers, be left to Germany until the time when the dirigibles are handed over.

Engines for aircraft.

Nacelles and fuselages.

Armament (guns, machine guns, light machine guns, bomb-dropping apparatus, torpedo-dropping apparatus, synchronisation apparatus, aiming apparatus).

Munitions (cartridges, shells, bombs loaded or unloaded, stocks of explosives or of material for their manufacture).

Instruments for use on aircraft.

Wireless apparatus and photographic or cinematograph apparatus for use on aircraft.

Component parts of any of the items under the preceding heads.

The material referred to above shall not be removed without special permission from the said Governments.

SECTION IV.
INTER-ALLIED COMMISSIONS OF CONTROL.

Article 203.

All the military, naval and air clauses contained in the present Treaty, for the execution of which a time-limit is prescribed, shall be executed by Germany under the control of Inter-Allied Commissions specially appointed for this purpose by the Principal Allied and Associated Powers.

Article 204.

The Inter-Allied Commissions of Control will be specially charged with the duty of seeing to the complete execution of the delivery, destruction, demolition and rendering things useless to be carried out at the expense of the German Government in accordance with the present Treaty.

They will communicate to the German authorities the decisions which the Principal Allied and Associated Powers have reserved the right to take, or which the execution of the military, naval and air clauses may necessitate.

Article 205.

The Inter-Allied Commissions of Control may establish their organisations at the seat of the central German Government.

They shall be entitled as often as they think desirable to proceed to any point whatever in German territory, or to send subcommissions, or to authorise one or more of their members to go, to any such point.

Article 206.

The German Government must give all necessary facilities for the accomplishment of their missions to the Inter-Allied Commissions of Control and to their members.

It shall attach a qualified representative to each Inter-Allied Commission of Control for the purpose of receiving the communications which the Commission may have to address to the German Government and of supplying or procuring for the Commission all information or documents which may be required.

The German Government must in all cases furnish at its own cost all labour and material required to effect the deliveries and the works of destruction, dismantling, demolition, and of rendering things useless, provided for in the present Treaty.

Article 207.

The upkeep and cost of the Commissions of Control and the expenses involved by their work shall be borne by Germany.

Article 208.

The Military Inter-Allied Commission of Control will represent the Governments of the Principal Allied and Associated Powers in dealing with the German Government in all matters concerning the execution of the military clauses.

In particular it will be its duty to receive from the German Government the notifications relating to the location of the stocks and depots of munitions, the armament of the fortified works, fortresses and forts which Germany is allowed to retain, and the location of the works or factories for the production of arms, munitions and war material and their operations.

It will take delivery of the arms, munitions and war material, will select the points where such delivery is to be effected, and will supervise the works of destruction, demolition, and of rendering things useless, which are to be carried out in accordance with the present Treaty.

The German Government must furnish to the Military Inter-Allied Commission of Control all such information and documents as the latter may deem necessary to ensure the complete execution of the military clauses, and in particular all legislative and administrative documents and regulations.

Article 209.

The Naval Inter-Allied Commission of Control will represent the Governments of the Principal Allied and Associated Powers in dealing with the German Government in all matters concerning the execution of the naval clauses.

In particular it will be its duty to proceed to the building yards and to supervise the breaking-up of the ships which are under construction there, to take delivery of all surface ships or submarines, salvage ships, docks and the tubular docks, and to supervise the destruction and breaking-up provided for.

The German Government must furnish to the Naval Inter-Allied Commission of Control all such information and documents as the Commission may deem necessary to ensure the complete execution of the naval clauses, in particular the designs of the warships, the composition of their armaments, the details and models of the guns, munitions, torpedoes, mines, explosives, wireless telegraphic apparatus and, in general, everything relating to naval war material, as well as all legislative or administrative documents or regulations.

Article 210.

The Aeronautical Inter-Allied Commission of Control will represent the Governments of the Principal Allied and Associated Powers in dealing with the German Government in all matters concerning the execution of the air clauses.

In particular it will be its duty to make an inventory of the aeronautical material existing in German territory, to inspect aeroplane, balloon and motor manufactories, and factories producing arms, munitions and explosives capable of being used by aircraft, to visit all aerodromes, sheds, landing grounds, parks and depots, to authorise, where necessary, a removal of material and to take delivery of such material.

The German Government must furnish to the Aeronautical Inter-Allied Commission of Control all such information and legislative, administrative or other documents which the Commission may consider necessary to ensure the complete execution of the air clauses, and in particular a list of the personnel belonging to all the German Air Services, and of the existing material, as well as of that in process of manufacture or on order, and a list of all establishments working for aviation, of their positions, and of all sheds and landing grounds.

Annex II

Military Clauses of the Italian Peace Treaty
10 February 1947

PART IV - NAVAL, MILITARY AND AIR CLAUSES

SECTION I - DURATION OF APPLICATION

Article 46

Each of the military, naval and air clauses of the present Treaty shall remain in force until modified in whole or in part by agreement between the Allied and Associated Powers and Italy or, after Italy becomes a member of the United Nations, by agreement between the Security Council and Italy.

SECTION II - GENERAL LIMITATIONS

Article 47

1. (*a*) The system of permanent Italian fortifications and military installations along the Franco-Italian frontier, and their armaments, shall be destroyed or removed.

(*b*) This system is deemed to comprise only artillery and infantry fortifications whether in groups or separated, pillboxes of any type, protected accommodation for personnel, stores and ammunition, observation posts and military cableways, whatever may be their importance and actual condition of maintenance or state of construction, which are constructed of metal, masonry or concrete or excavated in the rock.

2. The destruction or removal, mentioned in paragraph 1 above, is limited to a distance of 20 kilometers from any point on the frontier as defined by the present Treaty, and shall be completed within one year from the coming into force of the Treaty.

3. Any reconstruction of the above-mentioned fortifications and installations is prohibited.

4. (*a*) The following construction to the east of the Franco-Italian frontier is prohibited: permanent fortifications where weapons capable of firing into French territory or territorial waters can be emplaced; permanent military installations capable of being used to conduct or direct fire into French territory or territorial waters; and permanent supply and storage facilities emplaced solely for the use of the above-mentioned fortifications and installations.

(*b*) This prohibition does not include other types of non-permanent fortifications or surface accommodations and installations which are designed to meet only requirements of an internal character and of local defence of the frontiers.

5. In a coastal area 15 kilometers deep, stretching from the Franco-Italian frontier to the meridian of 9° 30′ E., Italy shall not establish any new, nor expand any existing, naval bases or permanent naval installations. This does not prohibit minor alterations to, nor the maintenance in good repair of, existing naval installations provided that their overall capacity will not thereby be increased.

Article 48

1. (*a*) Any permanent Italian fortifications and military installations along the Italo-Yugoslav frontier, and their armaments, shall be destroyed or removed.

(*b*) These fortifications and installations are deemed to comprise only artillery and infantry fortifications whether in groups or separated, pillboxes of any type, protected accommodation for personnel, stores and ammunition, observation posts and military cableways, whatever may be their importance and actual condition of maintenance or state of construction, which are constructed of metal, masonry or concrete or excavated in the rock.

2. The destruction or removal, mentioned in paragraph 1 above, is limited to a distance of 20 kilometers from any point on the frontier, as defined by the present Treaty, and shall be completed within one year from the coming into force of the Treaty.

3. Any reconstruction of the above-mentioned fortifications and installations is prohibited.

4. (*a*) The following construction to the west of the Italo-Yugoslav frontier is prohibited: permanent fortifications where weapons capable of firing into Yugoslav territory or territorial waters can be emplaced; permanent military installations capable of being used to conduct or direct fire into Yugoslav territory or territorial waters; and permanent supply and storage facilities emplaced solely for the use of the above-mentioned fortifications and installations.

(*b*) This prohibition does not include other types of non-permanent fortifications or surface accommodations and installations which are designed to meet only requirements of an internal character and of local defence of the frontiers.

5. In a coastal area 15 kilometers deep, stretching from the frontier between Italy and Yugoslavia and between Italy and the Free Territory of Trieste to the latitude of 44° 50′ N. and in the islands adjacent to this coast, Italy shall not establish any new, nor expand any existing, naval bases or permanent naval installations. This does not prohibit minor alterations to, nor the maintenance in good repair of, existing naval installations and bases provided that their overall capacity will not thereby be increased.

6. In the Apulian Peninsula east of longitude 17° 45′ E., Italy shall not construct any new permanent military, naval or military air installations nor expand existing installations. This does not prohibit minor alterations to, nor the maintenance in good repair of, existing installations provided that their overall capacity will not thereby be increased. Accommodation for such security forces as may be required for tasks of an internal character and local defence of frontiers will, however, be permitted.

Article 49

1. Pantellaria, the Pelagian Islands (Lampedusa, Lampione and Linosa) and Pianosa (in the Adriatic) shall be and shall remain demilitarised.

2. Such demilitarisation shall be completed within one year from the coming into force of the present Treaty.

Article 50

1. In Sardinia all permanent coast defence artillery emplacements and their armaments and all naval installations which are located within a distance of 30 kilometers from French territorial waters shall be removed to the mainland of Italy or demolished within one year from the coming into force of the present Treaty.

2. In Sicily and Sardinia all permanent installations and equipment for the maintenance and storage of torpedoes, sea mines and bombs shall be demolished or removed to the mainland of Italy within one year from the coming into force of the present Treaty.

3. No improvements to, reconstruction of, or extensions of existing installations or permanent fortifications in Sicily and Sardinia shall be permitted; however, with the exception of the northern Sardinia areas described in paragraph 1 above, normal maintenance of such installations or permanent fortifications and weapons already installed in them may take place.

4. In Sicily and Sardinia Italy shall be prohibited from constructing any naval, military and air force installations or fortifications except for such accommodation for security forces as may be required for tasks of an internal character.

Article 51

Italy shall not possess, construct or experiment with (i) any atomic weapon, (ii) any self-propelled or guided missiles or apparatus connected with their discharge (other than torpedoes and torpedo-launching gear comprising the normal armament of naval vessels permitted by the present Treaty), (iii) any guns with a range of over 30 kilometers, (iv) sea mines or torpedoes of non-contact types actuated by influence mechanisms, (v) any torpedoes capable of being manned.

Article 52

The acquisition of war material of German or Japanese origin or design, either from inside or outside Italy, or its manufacture, is prohibited to Italy.

Article 53

Italy shall not manufacture or possess, either publicly or privately, any war material different in type from, or exceeding in quantity, that required for the forces permitted in Sections III, IV and V below.

Article 54

The total number of heavy and medium tanks in the Italian armed forces shall not exceed 200.

Article 55

In no case shall any officer or non-commissioned officer of the former Fascist Militia or of the former Fascist Republican Army be permitted to hold officer's or non-commissioned officer's rank in the Italian Navy, Army, Air Force or Carabinieri, with the exception of such persons as shall have been exonerated by the appropriate body in accordance with Italian law.

SECTION III – LIMITATION OF THE ITALIAN NAVY

Article 56

1. The present Italian Fleet shall be reduced to the units listed in Annex XII A.*

2. Additional units not listed in Annex XII and employed only for the specific purpose of minesweeping, may continue to be employed until the end of the mine clearance period as shall be determined by the International Central Board for Mine Clearance of European Waters.

3. Within two months from the end of the said period, such of these vessels as are on loan to the Italian Navy from other Powers shall be returned to those Powers, and all other additional units shall be disarmed and converted to civilian use.

Article 57

1. Italy shall effect the following disposal of the units of the Italian Navy specified in Annex XII B:*

(*a*) The said units shall be placed at the disposal of the Governments of the Soviet Union, of the United Kingdom, of the United States of America, and of France;

(*b*) Naval vessels required to be transferred in compliance with sub-paragraph (*a*) above shall be fully equipped, in operational condition including a full outfit of armament stores, and complete with on-board spare parts and all necessary technical data;

three months from the coming into force of the present Treaty, except that, in the case of naval vessels that cannot be refitted within three months, the time limit for the transfer may be extended by the Four Governments;

(*d*) Reserve allowance of spare parts and armament stores for the naval vessels mentioned above shall, as far as possible, be supplied with the vessels.

The balance of reserve spare parts and armament stores shall be supplied to an extent and at dates to be decided by the Four Governments, in any case within a maximum of one year from the coming into force of the present Treaty.

2. Details relating to the above transfers will be arranged by a Four Power Commission to be established under a separate protocol.

* Not printed in this Annex.

3. In the event of loss or damage, from whatever cause, to any of the vessels in Annex XII B scheduled for transfer, and which cannot be made good by the agreed date for transfer of the vessel or vessels concerned, Italy undertakes to replace such vessel or vessels by equivalent tonnage from the list in Annex XII A, the actual vessel or vessels to be substituted being selected by the Ambassadors in Rome of the Soviet Union, of the United Kingdom, of the United States of America, and of France.

Article 58

1. Italy shall effect the following disposal of submarines and non-operational naval vessels. The time limits specified below shall be taken as commencing with the coming into force of the present Treaty.

(*a*) Surface naval vessels afloat not listed in Annex XII, including naval vessels under construction afloat, shall be destroyed or scrapped for metal within nine months.

(*b*) Naval vessels under construction on slips shall be destroyed or scrapped for metal within nine months.

(*c*) Submarines afloat and not listed in Annex XII B shall be sunk in the open sea in a depth of over 100 fathoms within three months.

(*d*) Naval vessels sunk in Italian harbours and approach channels, in obstruction of normal shipping, shall, within two years, either be destroyed on the spot or salvaged and subsequently destroyed or scrapped for metal.

(*e*) Naval vessels sunk in shallow Italian waters not in obstruction of normal shipping shall within one year be rendered incapable of salvage.

(*f*) Naval vessels capable of reconversion which do not come within the definition of war material, and which are not listed in Annex XII, may be reconverted to civilian uses or are to be demolished within two years.

2. Italy undertakes, prior to the sinking or destruction of naval vessels and submarines as provided for in the preceding paragraph, to salvage such equipment and spare parts as may be useful in completing the on-board and reserve allowances of spare parts and equipment to be supplied, in accordance with Article 57, paragraph 1, for all ships specified in Annex XII B.

3. Under the supervision of the Ambassadors in Rome of the Soviet Union, of the United Kingdom, of the United States of America, and of France, Italy may also salvage such equipment and spare parts of a non-warlike character as are readily adaptable for use in Italian civil economy.

Article 59

1. No battleship shall be constructed, acquired or replaced by Italy.

2. No aircraft carrier, submarine or other submersible craft, motor torpedo boat or specialised types of assault craft shall be constructed, acquired, employed or experimented with by Italy.

3. The total standard displacement of the war vessels, other than battleships, of the Italian Navy, including vessels under construction after the date of launching, shall not exceed 67,500 tons.

4. Any replacement of war vessels by Italy shall be effected within the limit of tonnage given in paragraph 3. There shall be no restriction on the replacement of auxiliary vessels.

5. Italy undertakes not to acquire or lay down any war vessels before January 1, 1950, except as necessary to replace any vessel, other than a battleship, accidentally lost, in which case the displacement of the new vessel is not to exceed by more than ten per cent the displacement of the vessel lost.

6. The terms used in this Article are, for the purposes of the present Treaty, defined in Annex XIII A.*

Article 60

1. The total personnel of the Italian Navy, excluding any naval air personnel, shall not exceed 25,000 officers and men.

2. During the mine clearance period as determined by the International Central Board for Mine Clearance of European Waters, Italy shall be authorised to employ for this purpose an additional number of officers and men not to exceed 2,500.

3. Permanent naval personnel in excess of that permitted under paragraph 1 shall be progressively reduced as follows, time limits being taken as commencing with the coming into force of the present Treaty:

(*a*) To 30,000 within six months;

(*b*) To 25,000 within nine months.

Two months after the completion of minesweeping by the Italian Navy, the excess personnel authorised by paragraph 2 is to be disbanded or absorbed within the above numbers.

4. Personnel, other than those authorised under paragraphs 1 and 2, and other than any naval air personnel authorised under Article 65, shall not receive any form of naval training as defined in Annex XIII B.

SECTION IV – LIMITATION OF THE ITALIAN ARMY

Article 61

The Italian Army, including the Frontier Guards, shall be limited to a force of 185,000 combat, service and overhead personnel and 65,000 Carabinieri, though either of the above elements may be varied by 10,000 as long as the total ceiling does not exceed 250,000. The organisation and armament of the Italian ground forces, as well as their deployment throughout Italy, shall be designed to meet only tasks of an internal character, local defence of Italian frontiers and anti-aircraft defence.

Article 62

The Italian Army, in excess of that permitted under Article 61 above, shall be disbanded within six months from the coming into force of the present Treaty.

* Not printed in this Annex.

Article 63

Personnel other than those forming part of the Italian Army or Carabinieri shall not receive any form of military training as defined in Annex XIII B.

SECTION V – LIMITATION OF THE ITALIAN AIR FORCE

Article 64

1. The Italian Air Force, including any naval air arm, shall be limited to a force of 200 fighter and reconnaissance aircraft and 150 transport, air-sea rescue, training (school type) and liaison aircraft. These totals include reserve aircraft. All aircraft except for fighter and reconnaissance aircraft shall be unarmed. The organisation and armament of the Italian Air Force as well as their deployment throughout Italy shall be designed to meet only tasks of an internal character, local defence of Italian frontiers and defence against air attack.

2. Italy shall not possess or acquire any aircraft designed primarily as bombers with internal bomb-carrying facilities.

Article 65

1. The personnel of the Italian Air Force, including any naval air personnel, shall be limited to a total of 25,000 effectives, which shall include combat, service and overhead personnel.

2. Personnel other than those forming part of the Italian Air Force shall not receive any form of military air training as defined in Annex XIII B.

Article 66

The Italian Air Force, in excess of that permitted under Article 65 above, shall be disbanded within six months from the coming into force of the present Treaty.

SECTION VI – DISPOSAL OF WAR MATERIAL
(as defined in Annex XIII C)*

Article 67

1. All Italian war material in excess of that permitted for the armed forces specified in Sections III, IV and V shall be placed at the disposal of the Governments of the Soviet Union, of the United Kingdom, of the United States of America, and of France, according to such instructions as they may give to Italy.

2. All Allied war material in excess of that permitted for the armed forces specified in Sections III, IV and V shall be placed at the disposal of the Allied or Associated Power concerned according to the instructions to be given to Italy by the Allied or Associated Power concerned.

* Not printed in this Annex.

3. All German and Japanese war material in excess of that permitted for the armed forces specified in Sections III, IV and V, and all German or Japanese drawings, including existing blueprints, prototypes, experimental models and plans, shall be placed at the disposal of the Four Governments in accordance with such instructions as they may give to Italy.

4. Italy shall renounce all rights to the above-mentioned war material and shall comply with the provisions of this Article within one year from the coming into force of the present Treaty except as provided for in Articles 56 to 58 thereof.

5. Italy shall furnish to the Four Governments lists of all excess war material within six months from the coming into force of the present Treaty.

SECTION VII – PREVENTION OF GERMAN AND JAPANESE REARMAMENT

Article 68

Italy undertakes to co-operate fully with the Allied and Associated Powers with a view to ensuring that Germany and Japan are unable to take steps outside German and Japanese territories towards rearmament.

Article 69

Italy undertakes not to permit the employment or training in Italy of any technicians, including military or civil aviation personnel, who are or have been nationals of Germany or Japan.

Article 70

Italy undertakes not to acquire or manufacture civil aircraft which are of German or Japanese design or which embody major assemblies of German or Japanese manufacture or design.

Source: John Wheeler-Bennett and Anthony Nicholls, *The Semblance of Peace The Political Settlement after the Second World War*, Macmillan, London, 1972, pp. 671-78.

Annex III

Comparative Table of Military Articles in the Balkan and Finnish Treaties

Number of Article in Treaty				*Subject*	*	**
Romanian	*Bulgarian*	*Hungarian*	*Finnish*			
11	9	12	13	Limitations of the Strength of Forces	No	58-60-61-54-64-65
12	10	13	14	Time Limit for Disbanding of Excess Forces	Yes	68(8)-62-65
13	11	14	15	Prohibition on Extraneous Service Training	Yes	58(4)-83-65(2)
--	12	--	--	Restrictions of Frontier Fortifications	--	47-48
--	--	--	16	Minesweeping	--	58(2)-60(2)-60(3)
14	13	15	17	Prohibition on Special Weapons	Yes	51-58(2)
15	14	16	18	Prohibition on Excess War Material	Yes	53
16	15	17	19	Disposal of Excess War Material	Yes	52-67-69
17-18	16-17	18-19	20-21	Prevention of German, Japanese Rearmament	Yes	68-70
19	18	20	22	Duration	Yes	48
20	19	21	--	Prisoners of War	Yes	71
21	20	22	--	Withdrawal of Allied Troops	No[a]	73
Annex II	Annex II	Annex II	Annex II	Definition of Military, Military Air and Naval Training	No[b]	Annex XIIIa
Annex III	Annex III	Annex III	Annex III	Definition and List of War Material	Yes	Annex XIIIc

* Whether identical in all of the four Treaties in which it occurs
** Corresponding Articles in Italian Treaty

[a] Article 21 in the Romanian Treaty and Article 22 in the Hungarian Treaty are identical
[b] Annex II is identical in all four Treaties except the Hungarian, where the definition of Naval Training is omitted, since Hungary has no navy

Annex IV

Military Clauses of the Treaty of Peace with Finland 1947

The Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, Australia, the Byelorussian Soviet Socialist Republic, Canada, Czechoslovakia, India, New Zealand, the Ukrainian Soviet Socialist Republic, and the Union of South Africa, as the States which are at war with Finland and actively waged war against the European enemy states with substantial military forces, hereinafter referred to as "the Allied and Associated Powers", of the one part, and Finland, of the other part;

Whereas Finland, having become an ally of Hitlerite Germany and having participated on her side in the war against the Union of Soviet Socialist Republics, the United Kingdom and other United Nations, bears her share of responsibility for this war;

Whereas, however, Finland on September 4, 1944, entirely ceased military operations against the Union of Soviet Socialist Republics, withdrew from the war against the United Nations, broke off relations with Germany and her satellites, and, having concluded on September 19, 1944, an Armistice with the Governments of the Union of Soviet Socialist Republics and the United Kingdom, acting on behalf of the United Nations at war with Finland, loyally carried out the Armistice terms; and

Whereas the Allied and Associated Powers and Finland are desirous of concluding a treaty of peace which, conforming to the principles of justice, will settle questions still outstanding as a result of the events hereinbefore recited and will form the basis of friendly relations between them, thereby enabling the Allied and Associated Powers to support Finland's application to become a member of the United Nations and also to adhere to any Convention concluded under the auspices of the United Nations;

Have therefore agreed to declare the cessation of the state of war and for this purpose to conclude the present Treaty of Peace, and have accordingly appointed the undersigned Plenipotentiaries who, after presentation of their full powers, found in good and due form, have agreed on the following provisions: (...)

PART III: Military, Naval and Air Clauses

Article 13

The maintenance of land, sea and air armaments for fortifications shall be closely restricted to meeting tasks of an internal character and local defence of frontiers. In accordance with the foregoing, Finland is authorised to have armed forces consisting of not more than:

a) A land army, including frontier troops and anti-aircraft artillery, with a total strength of 34,400 personnel;

b) A navy with a personnel strength of 4,500 and a total tonnage of 10,000 tons;

c) An air force, including any naval air arm, of 60 aircraft, including reserves, with a total personnel strength of 3,000. Finland shall not possess or acquire any aircraft designed primarily as bombers with internal bomb-carrying facilities.

These strengths shall in each case include combat, service and overhead personnel.

Article 14

The personnel of the Finnish Army, Navy and Air Force in excess of the respective strengths permitted under Article 13 shall be disbanded within six months from the coming into force of the present Treaty.

Article 15

Personnel not included in the Finnish Army, Navy or Air Force shall not receive any form of military training, naval training or military air training as defined in Annex II.

Article 16

1. As from the coming into force of the present Treaty, Finland will be invited to join the Barents, Baltic and Black Sea Zone Board of the International Organisation for Mine Clearance of European Waters and shall maintain at the disposal of the Central Mine Clearance Board all Finnish mine-sweeping forces until the end of the post-war mine clearance period, as determined by the Central Board.

2. During this post-war mine clearance period, Finland may retain additional naval units employed only for the specific purpose of mine-sweeping, over and above the tonnage permitted in Article 13.

Within two months of the end of the said period, such of these vessels as are on loan to the Finnish Navy from other Powers shall be returned to those Powers, and all other additional units shall be disarmed and converted to civilian use.

3. Finland is also authorised to employ 1,500 additional officers and men for mine-sweeping over and above the numbers permitted in Article 13. Two months after the completion of mine-sweeping by the Finnish Navy, the excess personnel shall be disbanded or absorbed within the numbers permitted in the said Article.

Article 17

Finland shall not possess, construct or experiment with any atomic weapon, any self-propelled or guided missiles or apparatus connected with their discharge (other than torpedoes and torpedo launching gear comprising the normal armament of naval vessels permitted by the present Treaty), sea mines or torpedoes of non-contact types actuated by influence mechanisms, torpedoes capable of being manned, submarines or other submersible craft, motor torpedo boats, or specialised types of assault craft.

Article 18

Finland shall not retain, produce or otherwise acquire, or maintain facilities for the manufacture of, war material in excess of that required for the maintenance of the armed forces permitted under Article 13 of the present Treaty.

Article 19

1. Excess war material of Allied origin shall be placed at the disposal of the Allied Power concerned according to the instructions given by that Power. Excess Finnish war material

shall be placed at the disposal of the Governments of the Soviet Union and the United Kingdom. Finland shall renounce all rights to this material.

2. War material of German origin or design in excess of that required for the armed forces permitted under the present Treaty shall be placed at the disposal of the Two Governments. Finland shall not acquire or manufacture any war material of German origin or design, or employ or train any technicians, including military and civil aviation personnel, who are or have been nationals of Germany.

3. Excess war material mentioned in paragraphs 1 and 2 of this Article shall be handed over or destroyed within one year from the coming into force of the present Treaty.

4. A definition and list of war material for the purposes of the present Treaty are contained in Annex III.

Article 20

Finland shall co-operate fully with the Allied and Associated Powers with a view to ensuring that Germany may not be able to take steps outside German territory towards rearmament.

Article 21

Finland shall not acquire or manufacture civil aircraft which are of German or Japanese design or which embody major assemblies of German or Japanese manufacture or design.

Article 22

Each of the military, naval and air clauses of the present Treaty shall remain in force until modified in whole or in part by agreement between the Allied and Associated Powers and Finland or, after Finland becomes a member of the United Nations,by agreement between the Security Council and Finland.

Annex I

(See Articles 1, 2 and 4)
Map of the Frontiers of Finland and the Areas mentioned in Articles 2 and 4

Annex II

(See Article 15)
Definition of Military, Military Air and Naval Training

1. Military training is defined as: the study of and practice in the use of war material specially designed or adapted for army purpose, and training devices relative thereto; the status and carrying out of all drill or movements which teach or practice evolutions performed by fighting forces in battle; and the organized study of tactics, strategy and staff work.

2. Military air training is defined as: the study of and practice in the use of war material specially designed or adapted for air force purpose, and training devices relative thereto; the study and practice of all specialised evolutions, including formation flying, performed by

aircraft in the accomplishment of an air force mission, and the organised study of air tactics, strategy and staff work.

3. Naval training is defined as: the study, administration or practice in the use ot warships or naval establishments as well as the study or employment of all apparatus and training devices relative thereto, which are used in the prosecution of naval warfare, except for those which are also normally used for civilian purposes; also the teaching, practice or organised study of naval tactics, strategy and staff work including the execution of all operations and manoeuvres not required in the peaceful employment of ships.

Annex III

(See Article 19)
Definition and List of War Material

The term "war material" as used in the present Treaty shall include all arms, ammunition and implements specially designed or adapted for use in war as listed below.

The Allied and Associated Powers reserve the right to amend the list periodically by modification or addition in the light of subsequent scientific development.

Category I

1. Military rifles, carbines, revolvers and pistols; barrels for these weapons and other spare parts not readily adaptable for civilian use.

2. Machine guns, military automatic or autoloading rifles, and machine pistols; barrels for these weapons and other spare parts not readily adaptable for civilian use; machine gun mounts.

3. Guns, howitzers, mortars, cannon special to aircraft; breechless or recoil-less guns and flamethrowers, barrels and other spare parts nor readily adaptable for civilian use; carriages and mountings for the foregoing.

4. Rocket projectors; launching and control mechanisms for self-propelling and guided missiles; mountings for same.

5. Self-propelling and guided missiles, projectiles, rockets, fixed ammunition and cartridges, filled or unfilled, for the arms listed in sub-paragraphs 1-4 above and fuses, tubes or contrivances to explode or operate them. Fuses required for civilian use are not included.

6. Grenades, bombs, torpedoes, mines, depth charges and incendiary materials of charges, filled or unfilled; all means for exploding or operating them. Fuses required for civilian use are not included.

7. Bayonets.

Category II

1. Armoured fighting vehicles; armoured trains, not technically convertible to civilian use.

2. Mechanical and self-propelled carriages for any of the weapons listed in Category I; special type military chassis or bodies other than those enumerated in sub-paragraph I above.

3. Armour plate, greater than three inches in thickness, used for protective purposes in warfare.

Category III

1. Aiming and computing devices, including predictors and plotting apparatus, for fire control; direction of fire instruments; gun sights; bomb sights; fuse setters; equipment for the calibration of guns and fire control instruments.
2. Assault bridging, assault boats and storm boats.
3. Deceptive warfare, dazzle and decoy devices.
4. Personal war equipment of a specialised nature not readily adaptable to civilian use.

Category IV

1. Warships of all kinds, including converted vessels and craft designed or intended for their attendance or support, which cannot be technically reconverted to civilian use, as well as weapons, armour, ammunition, aircraft and all other equipment, material, machines and installations not used in peace time on ships other than warships.
2. Landing craft and amphibious vehicles or equipment or any kind; assault boats or devices of any type as well as catapults or other apparatus for launching or throwing aircraft, rockets, propelled weapons or any other missile, instrument or device whether manned or unmanned, guided or uncontrolled.
3. Submersible or semi-submersible ships, craft, weapons, devices or apparatus of any kind, including specially designed harbour defence booms, except as required by salvage, rescue or other civilian uses, as well as all equipment, accessories, spare parts, experimental or training aids, instruments or installations as may be especially designed for the construction, testing, maintenance or housing or the same.

Category V

1. Aircraft, assembled or unassembled, both heavier and lighter than air, which are designed or adapted for aerial combat by the use of machine guns, rocket projectors or artillery or for the carrying and dropping of bombs, or which are equipped with, or which by reason of their design or construction are prepared for, any of the appliances referred to in sub-paragraph 2 below.
2. Aerial gun mounts and frames, bomb racks, torpedo carriers and bomb release or torpedo release mechanisms; gun turrets and blisters.
3. Equipment specially designed for and used solely by airborne troops.
4. Catapults or launching apparatus for ship-borne, land- or sea-based aircraft; apparatus for launching aircraft weapons.
5. Barrage balloons.

Category VI

Asphyxiating, lethal, toxic or incapacitating substances intended for war purposes, or manufactured in excess of civilian requirements.

Category VII

Propellants, explosives, pyrotechnics or liquefied gases destined for the propulsion, explosion, charging or filling of, or for use in connection with, the war material in the present categories, not capable or civilian sue or manufactured in excess of civilian requirements.

Category VIII

Factory and toll equipment specially designed for the production and maintenance of the material enumerated above and not technically convertible to civilian use.

Appendix II

Decision of the Government of Finland on Stipulations of the Paris Peace Treaty Concerning Germany and Limiting the Sovereignty of Finland

After Germany has been united and its sovereignty reinstated, the Government of Finland considers the stipulations concerning Germany in Part III of the Paris Peace Treaty to have lost their meaning.

The other stipulations in Part III of the Peace Treaty limiting Finland's sovereignty do not correspond to Finland's status as a Member State of the United Nations and Participating State in the Conference on Security and Cooperation in Europe. Therefore the Government states that also they have lost their meaning.

The only exception is formed by atomic weapons, the acquisition of which is prohibited under Article 17 of the Peace Treaty. Finland has undertaken not to acquire nuclear weapons also by becoming Party to the Non-Proliferation Treaty in 1969.

Stating that the stipulations in Part III of the Peace Treaty have lost their meaning does not alter the basis of Finland's security and defence policy.

Annex V

Treaty of Economic, Social and Cultural Collaboration and Collective Self-Defence, signed at Brussels on March 17, 1948, as amended by the 'Protocol Modifying and Completing the Brussels Treaty'

Signed at Paris on October 23, 1954

[The High Contracting Parties.]

Resolved:

To reaffirm their faith in fundamental human rights, in the dignity and worth of the human person and in the other ideals proclaimed in the Charter of the United Nations;

To fortify and preserve the principles of democracy, personal freedom and political liberty, the constitutional traditions and the rule of law, which are their common heritage;

To strengthen, with these aims in view, the economic, social and cultural ties by which they are already united;

To co-operate loyally and to co-ordinate their efforts to create in Western Europe a firm basis for European economic recovery;

To afford assistance to each other, in accordance with the Charter of the United Nations, in maintaining international peace and security and in resisting any policy of aggression;

To promote the unity and to encourage the progressive integration of Europe;[1]

To associate progressively in the pursuance of these aims other States inspired by the same ideals and animated by the like determination;

Desiring for these purposes to conclude a treaty for collaboration in economic, social and cultural matters and for collective self-defence;

Have agreed as follows:

Article I[2]

Convinced of the close community of their interests and of the necessity of uniting in order to promote the economic recovery of Europe, the High Contracting Parties will so organise and co-ordinate their economic activities as

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[1] Amended by Article II of the Protocol.

[2] Amended by Article II of the Protocol.

to produce the best possible results, by the elimination of conflict in their economic policies, the co-ordination of production and the development of commercial exchanges.

The co-operation provided for in the preceding paragraph, which will be effected through the Council referred to in Article VIII, as well as through other bodies, shall not involve any duplication of, or prejudice to, the work of other economic organisations in which the High Contracting Parties are or may be represented but shall on the contrary assist the work of those organisations.

ARTICLE II

The High Contracting Parties will make every effort in common, both by direct consultation and in specialised agencies, to promote the attainment of a higher standard of living by their peoples and to develop on corresponding lines the social and other related services of their countries.

The High Contracting Parties will consult with the object of achieving the earliest possible application of recommendations of immediate practical interest, relating to social matters, adopted with their approval in the specialised agencies.

They will endeavour to conclude as soon as possible conventions with each other in the sphere of social security.

ARTICLE III

The High Contracting Parties will make every effort in common to lead their peoples towards a better understanding of the principles which form the basis of their common civilisation and to promote cultural exchanges by conventions between themselves or by other means.

ARTICLE IV[3]

In the execution of the Treaty, the High Contracting Parties and any Organs established by Them under the Treaty shall work in close co-operation with the North Atlantic Treaty Organisation.

Recognising the undesirability of duplicating the military staffs of NATO, the Council and its Agency will rely on the appropriate military authorities of NATO for information and advice on military matters.

ARTICLE V[4]

If any of the High Contracting Parties should be the object of an armed attack in Europe, the other High Contracting Parties will, in accordance with the provisions of Article 51 of the Charter of the United Nations, afford the Party so attacked all the military and other aid and assistance in their power.

[3] New Article inserted under Article III of the Protocol.

[4] Formerly Article IV.

ARTICLE VI[5]

All measures taken as a result of the preceding Article shall be immediately reported to the Security Council. They shall be terminated as soon as the Security Council has taken the measures necessary to maintain or restore international peace and security.

The present Treaty does not prejudice in any way the obligations of the High Contracting Parties under the provisions of the Charter of the United Nations. It shall not be interpreted as affecting in any way the authority and responsibility of the Security Council under the Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

ARTICLE VII[6]

The High Contracting Parties declare, each so far as he is concerned, that none of the international engagements now in force between him and any other of the High Contracting Parties or any third State is in conflict with the provisions of the present Treaty.

None of the High Contracting Parties will conclude any alliance or participate in any coalition directed against any other of the High Contracting Parties.

ARTICLE VIII[7]

1. For the purposes of strengthening peace and security and of promoting unity and of encouraging the progressive integration of Europe and closer co-operation between Them and with other European organisations, the High Contracting Parties to the Brussels Treaty shall create a Council to consider matters concerning the execution of this Treaty and of its Protocols and their Annexes.

2. This Council shall be known as the "Council of Western European Union"; it shall be so organised as to be able to exercise its functions continuously; it shall set up such subsidiary bodies as may be considered necessary: in particular it shall establish immediately an Agency for the Control of Armaments whose functions are defined in Protocol No. IV.

3. At the request of any of the High Contracting Parties the Council shall be immediately convened in order to permit Them to consult with regard to any situation which may constitute a threat to peace, in whatever area this threat should arise, or a danger to economic stability.

4. The Council shall decide by unanimous vote questions for which no other voting procedure has been or may be agreed. In the cases provided for in Protocols II, III and IV it will follow the various voting procedures, unanimity, two-thirds majority, simple majority, laid down therein. It will decide by simple majority questions submitted to it by the Agency for the Control of Armaments.

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[5] Formerly Article V.

[6] Formerly Article VI.

[7] Formerly Article VII, as amended by Article IV of the Protocol.

ARTICLE IX[8]

The Council of Western European Union shall make an annual report on its activities and in particular concerning the control of armaments to an Assembly composed of representatives of the Brussels Treaty Powers to the Consultative Assembly of the Council of Europe.

ARTICLE X[9]

In pursuance of their determination to settle disputes only by peaceful means, the High Contracting Parties will apply to disputes between themselves the following provisions:

The High Contracting Parties will, while the present Treaty remains in force, settle all disputes falling within the scope of Article 36, paragraph 2, of the Statute of the International Court of Justice, by referring them to the Court, subject only, in the case of each of them, to any reservation already made by that Party when accepting this clause for compulsory jurisdiction to the extent that that Party may maintain the reservation.

In addition, the High Contracting Parties will submit to conciliation all disputes outside the scope of Article 36, paragraph 2, of the Statute of the International Court of Justice.

In the case of a mixed dispute involving both questions for which conciliation is appropriate and other questions for which judicial settlement is appropriate, any Party to the dispute shall have the right to insist that the judicial settlement of the legal questions shall precede conciliation.

The preceding provisions of this Article in no way affect the application of relevant provisions or agreements prescribing some other method of pacific settlement.

ARTICLE XI[10]

The High Contracting Parties may, by agreement, invite any other State to accede to the present Treaty on conditions to be agreed between them and the State so invited.

Any State so invited may become a Party to the Treaty by depositing an instrument of accession with the Belgian Government.

The Belgian Government will inform each of the High Contracting Parties of the deposit of each instrument of accession.

ARTICLE XII[11]

The present Treaty shall be ratified and the instruments of ratification shall be deposited as soon as possible with the Belgian Government.

It shall enter into force on the date of the deposit of the last instrument of ratification and shall thereafter remain in force for fifty years.

After the expiry of the period of fifty years, each of the High Contracting Parties shall have the right to cease to be a party thereto provided that he shall

[8] New Article inserted under Article V of the Protocol.
[9] Formerly Article VIII.
[10] Formerly Article IX.
[11] Formerly Article X.

have previously given one year's notice of denunciation to the Belgian Government.

The Belgian Government shall inform the Governments of the other High Contracting Parties of the deposit of each instrument of ratification and of each notice of denunciation.

Protocol Modifying and Completing the Brussels Treaty

Signed at Paris on October 23, 1954; entered into force on May 6, 1955

His Majesty the King of the Belgians, the President of the French Republic, President of the French Union, Her Royal Highness the Grand Duchess of Luxembourg, Her Majesty the Queen of the Netherlands and Her Majesty The Queen of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories, Head of the Commonwealth, Parties to the Treaty of Economic, Social and Cultural Collaboration and Collective Self-Defence, signed at Brussels on March the 17th, 1948, hereinafter referred to as the Treaty, on the one hand,

and the President of the Federal Republic of Germany and the President of the Italian Republic on the other hand,

Inspired by a common will to strengthen peace and security;

Desirous to this end of promoting the unity and of encouraging the progressive integration of Europe;

Convinced that the accession of the Federal Republic of Germany and the Italian Republic to the Treaty will represent a new and substantial advance towards these aims;

Having taken into consideration the decisions of the London Conference as set out in the Final Act of October the 3rd, 1954, and its Annexes;

Have appointed as their Plenipotentiaries:

His Majesty the King of the Belgians
His Excellency M. Paul-Henri Spaak, Minister of Foreign Affairs.

The President of the French Republic, President of the French Union
His Excellency M. Pierre Mendès-France, Prime Minister, Minister of Foreign Affairs.

The President of the Federal Republic of Germany
His Excellency Dr. Konrad Adenauer, Federal Chancellor, Federal Minister of Foreign Affairs.

The President of the Italian Republic
His Excellency M. Gaetano Martino, Minister of Foreign Affairs.

Her Royal Highness the Grand Duchess of Luxembourg
His Excellency M. Joseph Bech, Prime Minister, Minister of Foreign Affairs.

Her Majesty the Queen of the Netherlands
His Excellency M. Johan Willem Beyen, Minister of Foreign Affairs.

Her Majesty The Queen of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories, Head of the Commonwealth
For the United Kingdom of Great Britain and Northern Ireland
The Right Honourable Sir Anthony Eden, K.G., M.C., Member of Parliament, Principal Secretary of State for Foreign Affairs.

Who, having exhibited their full powers found in good and due form,

Have agreed as follows:

ARTICLE I

The Federal Republic of Germany and the Italian Republic hereby accede to the Treaty as modified and completed by the present Protocol.

The High Contracting Parties to the present Protocol consider the Protocol on Forces of Western European Union (hereinafter referred to as Protocol No. II), the Protocol on the Control of Armaments and its Annexes (hereinafter referred to as Protocol No. III), and the Protocol on the Agency of Western European Union for the Control of Armaments (hereinafter referred to as Protocol No. IV) to be an integral part of the present Protocol.

ARTICLE II

The sub-paragraph of the Preamble to the Treaty: "to take such steps as may be held necessary in the event of renewal by Germany of a policy of aggression" shall be modified to read: "to promote the unity and to encourage the progressive integration of Europe."

The opening words of the 2nd paragraph of Article I shall read: "The co-operation provided for in the preceding paragraph, which will be effected through the Council referred to in Article VIII . . . "

ARTICLE III

The following new Article shall be inserted in the Treaty as Article IV: "In the execution of the Treaty the High Contracting Parties and any organs established by Them under the Treaty shall work in close co-operation with the North Atlantic Treaty Organisation.

"Recognising the undesirability of duplicating the Military Staffs of NATO, the Council and its Agency will rely on the appropriate Military Authorities of NATO for information and advice on military matters."

Articles IV, V, VI and VII of the Treaty will become respectively Articles V, VI, VII and VIII.

ARTICLE IV

Article VIII of the Treaty (formerly Article VII) shall be modified to read as follows:

"1. For the purposes of strengthening peace and security and of promoting unity and of encouraging the progressive integration of Europe and closer co-

operation between Them and with other European organisations, the High Contracting Parties to the Brussels Treaty shall create a Council to consider matters concerning the execution of this Treaty and of its Protocols and their Annexes.

"2. This Council shall be known as the 'Council of Western European Union'; it shall be so organised as to be able to exercise its functions continuously; it shall set up such subsidiary bodies as may be considered necessary: in particular it shall establish immediately an Agency for the Control of Armaments whose functions are defined in Protocol No. IV.

"3. At the request of any of the High Contracting Parties the Council shall be immediately convened in order to permit Them to consult with regard to any situation which may constitute a threat to peace, in whatever area this threat should arise, or a danger to economic stability.

"4. The Council shall decide by unanimous vote questions for which no other voting procedure has been or may be agreed. In the cases provided for in Protocols II, III and IV it will follow the various voting procedures, unanimity, two-thirds majority, simple majority, laid down therein. It will decide by simple majority questions submitted to it by the Agency for the Control of Armaments."

ARTICLE V

A new Article shall be inserted in the Treaty as Article IX: "The Council of Western European Union shall make an Annual Report on its activities and in particular concerning the control of armaments to an Assembly composed of representatives of the Brussels Treaty Powers to the Consultative Assembly of the Council of Europe."

The Articles VIII, IX and X of the Treaty shall become respectively Articles X, XI and XII.

ARTICLE VI

The present Protocol and the other Protocols listed in Article I above shall be ratified and the instruments of ratification shall be deposited as soon as possible with the Belgian Government.[12]

They shall enter into force when all instruments of ratification of the present Protocol have been deposited with the Belgian Government and the instrument of accession of the Federal Republic of Germany to the North Atlantic Treaty has been deposited with the Government of the United States of America.[13]

The Belgian Government shall inform the Governments of the other High Contracting Parties and the Government of the United States of America of the deposit of each instrument of ratification.

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[12] Ratifications and date of deposit: Italy (April 20, 1955); Belgium (April 22, 1955); Netherlands (May 1, 1955); Luxembourg (May 4, 1955); France (May 5, 1955); Federal Republic of Germany (May 5, 1955); United Kingdom (May 5, 1955).

[13] May 6, 1955.

In witness whereof the above-mentioned Plenipotentiaries have signed the present Protocol and have affixed thereto their seals.

Done at Paris this twenty-third day of October, 1954, in two texts, in the English and French languages, each text being equally authoritative in a single copy which shall remain deposited in the archives of the Belgian Government and of which certified copies shall be transmitted by that Government to each of the other signatories.

For Belgium:
(L.S.) P.-H. SPAAK.

For France:
(L.S.) P. MENDÈS-FRANCE.

For the Federal Republic of Germany:
(L.S.) ADENAUER.

For Italy:
(L.S.) G. MARTINO.

For Luxembourg:
(L.S.) JOS. BECH.

For the Netherlands:
(L.S.) J. W. BEYEN.

For the United Kingdom of Great Britain and Northern Ireland:
(L.S.) ANTHONY EDEN.

ANNEXES

No. I A

LETTER CONCERNING THE APPLICATION AND INTERPRETATION OF ARTICLE X OF THE MODIFIED BRUSSELS TREATY, ADDRESSED BY THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY TO THE OTHER GOVERNMENTS SIGNATORY TO THE PROTOCOL MODIFYING AND COMPLETING THE BRUSSELS TREATY

Paris, October 23, 1954.

Your Excellency,

I have the honour to make the following communication to your Excellency in order to place on record the undertaking of the Federal Government regarding the application and interpretation of Article X (formerly Article VIII), of the Brussels Treaty.

The Federal Government undertake, before the Protocol modifying and completing the Brussels Treaty and related Protocols and their Annexes are ratified by the High Contracting Parties, to declare their acceptance of the

compulsory jurisdiction of the International Court of Justice in accordance with Article X (formerly Article VIII) of the Treaty, having made known to the Parties the reservation accompanying their acceptance.

The Federal Government understand that, in the view of the other High Contracting Parties, paragraph 5 of Article X (formerly Article VIII) of the Treaty leaves the way open for concluding agreements on other means of settling disputes between them, and that the undertaking in question shall in no way prejudice the possibility of opening discussions immediately with a view to establishing other methods of settling possible disputes in the application or interpretation of the Treaty.

Moreover, in the opinion of the Federal Government, the widening of the Brussels Treaty may give rise to a number of doubts and disputes as to the interpretation and application of the Treaty, the Protocols and their Annexes, which may not be of fundamental importance but mainly of a technical nature. The Federal Government consider that it is desirable to establish another, simpler procedure for the settlement of such matters.

The Federal Government therefore propose that the High Contracting Parties should discuss the problems set out above at once, with a view to reaching agreement on an appropriate procedure.

I should be grateful if your Excellency would confirm that . . . [the Government concerned] agree with this letter. The exchange of letters thus effected will be considered as an Annex to the Protocol modifying and completing the Brussels Treaty, within the meaning of Article IV, paragraph 1, of the said Protocol.

Accept, Your Excellency, the renewed assurance of my highest consideration,

(*signed*) ADENAUER

Chancellor of the Federal Republic of Germany
Federal Minister of Foreign Affairs.

No. I B

REPLY TO THE LETTER OF THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY BY THE OTHER GOVERNMENTS SIGNATORY TO THE PROTOCOL MODIFYING AND COMPLETING THE BRUSSELS TREATY

Paris, October 23, 1954.

Your Excellency,

I have the honour to acknowledge receipt of your Excellency's communication of October 23, 1954, and to state that . . . [the Government con-

cerned] have noted with satisfaction that the Government of the Federal Republic of Germany undertake to declare their acceptance of the compulsory jurisdiction of the International Court of Justice in accordance with Article X (formerly Article VIII) of the Brussels Treaty, having made known to the High Contracting Parties the reservations accompanying their acceptance.

I confirm that . . . [the Government concerned] interpret paragraph 5 of Article X (formerly Article VIII) of the Treaty as stated in the third paragraph of your Excellency's communication.

With regard to the fourth and fifth paragraphs of your Excellency's communication, . . . [the Government concerned] are in agreement with the proposal of the Federal Government that the High Contracting Parties should discuss at once the question of establishing an appropriate procedure for the settlement of the possible disputes to which the Federal Government draw attention.

They also agree to consider this exchange of letters as an Annex to the Protocol modifying and completing the Brussels Treaty within the meaning of Article IV, paragraph 1, of the said Protocol.

Accept, Your Excellency, the renewed assurance of my highest consideration,

(*signature*)

No. II A

LETTER CONCERNING THE APPLICATION AND INTERPRETATION OF ARTICLE X OF THE MODIFIED BRUSSELS TREATY, ADDRESSED BY THE GOVERNMENT OF ITALY TO THE OTHER GOVERNMENTS SIGNATORY TO THE PROTOCOL MODIFYING AND COMPLETING THE BRUSSELS TREATY

Paris, October 23, 1954.

Your Excellency,

I have the honour to make the following communication to your Excellency in order to place on record the undertaking of the Italian Government regarding the application and interpretation of Article X (formerly Article VIII), of the Brussels Treaty.

The Italian Government undertake before the Protocol modifying and completing the Brussels Treaty and related Protocols and their Annexes are ratified by the High Contracting Parties, to declare their acceptance of the compulsory jurisdiction of the International Court of Justice in accordance with Article X (formerly Article VIII) of the Treaty, having made known to the Parties the reservations accompanying their acceptance.

The Italian Government understand that, in the view of the other High Contracting Parties, paragraph 5 of Article X (formerly Article VIII) of the Treaty leaves the way open for concluding agreements on other means of

settling disputes between them, and that the undertaking in question shall in no way prejudice the possibility of opening discussions immediately with a view to establishing other methods of settling possible disputes in the application or interpretation of the Treaty.

I should be grateful if your Excellency would confirm that . . . [the Government concerned] agree with this letter. The exchange of letters thus effected will be considered as an Annex to the Protocol modifying and completing the Brussels Treaty, within the meaning of Article IV, paragraph 1, of the said Protocol.

Accept, Your Excellency, the renewed assurance of my highest consideration,

(*signed*) G. MARTINO
Minister of Foreign Affairs.

No. II B

REPLY TO THE LETTER OF THE GOVERNMENT OF ITALY BY THE OTHER GOVERNMENTS SIGNATORY TO THE PROTOCOL MODIFYING AND COMPLETING THE BRUSSELS TREATY

Paris, October 23, 1954.

Your Excellency,

I have the honour to acknowledge receipt of your Excellency's communication of October 23, 1954, and to state that . . . [the Government concerned] have noted with satisfaction that the Italian Government undertake to declare their acceptance of the compulsory jurisdiction of the International Court of Justice in accordance with Article X (formerly Article VIII) of the Brussels Treaty, having made known to the High Contracting Parties the reservations accompanying their acceptance.

I confirm that . . . [the Government concerned] interpret paragraph 5 of Article X (formerly Article VIII) of the Treaty as stated in the third paragraph of your Excellency's communication.

They also agree to consider this exchange of letters as an Annex to the Protocol modifying and completing the Brussels Treaty within the meaning of Article IV, paragraph 1, of the said Protocol.

Accept, Your Excellency, the renewed assurance of my highest consideration,

(*signature*)

Protocol No. II on Forces of Western European Union

Signed at Paris on October 23, 1954; entered into force on May 6, 1955

His Majesty the King of the Belgians, the President of the French Republic, President of the French Union, the President of the Federal Republic of Germany, the President of the Italian Republic, Her Royal Highness the Grand Duchess of Luxembourg, Her Majesty the Queen of the Netherlands, and Her Majesty The Queen of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories, Head of the Commonwealth, Signatories of the Protocol Modifying and Completing the Brussels Treaty,

Having consulted the North Atlantic Council,

Have appointed as their Plenipotentiaries:

His Majesty the King of the Belgians
His Excellency M. Paul-Henri Spaak, Minister of Foreign Affairs.

The President of the French Republic, President of the French Union
His Excellency M. Pierre Mendès-France, Prime Minister, Minister of Foreign Affairs.

The President of the Federal Republic of Germany
His Excellency Dr. Konrad Adenauer, Federal Chancellor, Federal Minister of Foreign Affairs.

The President of the Italian Republic
His Excellency M. Gaetano Martino, Minister of Foreign Affairs.

Her Royal Highness the Grand Duchess of Luxembourg.
His Excellency M. Joseph Bech, Prime Minister, Minister of Foreign Affairs.

Her Majesty the Queen of the Netherlands
His Excellency M. Johan Willem Beyen, Minister of Foreign Affairs.

Her Majesty The Queen of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories, Head of the Commonwealth
For the United Kingdom of Great Britain and Northern Ireland
The Right Honourable Sir Anthony Eden, K.G., M.C., Member of Parliament, Principal Secretary of State for Foreign Affairs.

Have agreed as follows:

ARTICLE I

1. The land and air forces which each of the High Contracting Parties to the present Protocol shall place under the Supreme Allied Commander, Europe, in peace-time on the mainland of Europe shall not exceed in total strength and number of formations:

(*a*) for Belgium, France, the Federal Republic of Germany, Italy and the Netherlands, the maxima laid down for peace-time in the Special Agreement annexed to the Treaty on the Establishment of a European Defence Community signed at Paris, on 27th May, 1952; and

(*b*) for the United Kingdom, four divisions and the Second Tactical Air Force;

(*c*) for Luxembourg, one regimental combat team.

2. The number of formations mentioned in paragraph 1 may be brought up to date and adapted as necessary to make them suitable for the North Atlantic Treaty Organisation, provided that the equivalent fighting capacity and total strengths are not exceeded.

3. The statement of these maxima does not commit any of the High Contracting Parties to build up or maintain forces at these levels, but maintains their right to do so if required.

ARTICLE II

As regards naval forces, the contribution to NATO Commands of each of the High Contracting Parties to the present Protocol shall be determined each year in the course of the Annual Review (which takes into account the recommendations of the NATO military authorities). The naval forces of the Federal Republic of Germany shall consist of the vessels and formations necessary for the defensive missions assigned to it by the North Atlantic Treaty Organisation within the limits laid down in the Special Agreement mentioned in Article I, or equivalent fighting capacity.

ARTICLE III

If at any time during the Annual Review recommendations are put forward, the effect of which would be to increase the level of forces above the limits specified in Articles I and II, the acceptance by the country concerned of such recommended increases shall be subject to the unanimous approval of the High Contracting Parties to the present Protocol expressed either in the Council of Western European Union or in the North Atlantic Treaty Organisation.

ARTICLE IV

In order that it may establish that the limits specified in Articles I and II are being observed, the Council of Western European Union will regularly receive information acquired as a result of inspections carried out by the Supreme Allied Commander, Europe. Such information will be transmitted by a high-ranking officer designated for the purpose by the Supreme Allied Commander, Europe.

ARTICLE V

The strength and armaments of the internal defence and police forces on the mainland of Europe of the High Contracting Parties to the present Protocol

shall be fixed by agreements within the Organisation of Western European Union, having regard to their proper functions and needs and to their existing levels.

ARTICLE VI

Her Majesty The Queen of the United Kingdom of Great Britain and Northern Ireland will continue to maintain on the mainland of Europe, including Germany, the effective strength of the United Kingdom forces which are now assigned to the Supreme Allied Commander, Europe, that is to say four divisions and the Second Tactical Air Force, or such other forces as the Supreme Allied Commander, Europe, regards as having equivalent fighting capacity. She undertakes not to withdraw these forces against the wishes of the majority of the High Contracting Parties who should take their decision in the knowledge of the views of the Supreme Allied Commander, Europe. This undertaking shall not, however, bind her in the event of an acute overseas emergency. If the maintenance of the United Kingdom forces on the mainland of Europe throws at any time too great a strain on the external finances of the United Kingdom, she will, through Her Government in the United Kingdom of Great Britain and Northern Ireland, invite the North Atlantic Council to review the financial conditions on which the United Kingdom formations are maintained.

In witness whereof, the above-mentioned Plenipotentiaries have signed the present Protocol, being one of the Protocols listed in Article I of the Protocol Modifying and Completing the Treaty, and have affixed thereto their seals.

Done at Paris this twenty-third day of October, 1954, in two texts, in the English and French languages, each text being equally authoritative, in a single copy, which shall remain deposited in the archives of the Belgian Government and of which certified copies shall be transmitted by that Government to each of the other Signatories.

For Belgium:
(L.S.) P.-H. SPAAK.

For France:
(L.S.) P. MENDÈS-FRANCE.

For the Federal Republic of Germany:
(L.S.) ADENAUER.

For Italy:
(L.S.) G. MARTINO.

For Luxembourg:
(L.S.) JOS. BECH.

For the Netherlands:
(L.S.) J. W. BEYEN.

For the United Kingdom of Great Britain and Northern Ireland:
(L.S.) ANTHONY EDEN.

Protocol No. III on the Control of Armaments

Signed at Paris on October 23, 1954; entered into force on May 6, 1955

His Majesty the King of the Belgians, the President of the French Republic, President of the French Union, the President of the Federal Republic of Germany, the President of the Italian Republic, Her Royal Highness the Grand Duchess of Luxembourg, Her Majesty the Queen of the Netherlands, Her Majesty The Queen of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories, Head of the Commonwealth, Signatories of the Protocol Modifying and Completing the Brussels Treaty,

Have appointed as their Plenipotentiaries:

His Majesty the King of the Belgians
His Excellency M. Paul-Henri Spaak, Minister of Foreign Affairs.

The President of the French Republic, President of the French Union
His Excellency M. Pierre Mendès-France, Prime Minister, Minister of Foreign Affairs.

The President of the Federal Republic of Germany
His Excellency Dr. Konrad Adenauer, Federal Chancellor, Federal Minister of Foreign Affairs.

The President of the Italian Republic
His Excellency M. Gaetano Martino, Minister of Foreign Affairs.

Her Royal Highness the Grand Duchess of Luxembourg
His Excellency M. Joseph Bech, Prime Minister, Minister of Foreign Affairs.

Her Majesty the Queen of the Netherlands
His Excellency M. Johan Willem Beyen, Minister of Foreign Affairs.

Her Majesty The Queen of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories, Head of the Commonwealth
For the United Kingdom of Great Britain and Northern Ireland
The Right Honourable Sir Anthony Eden, K.G., M.C., Member of Parliament, Principal Secretary of State for Foreign Affairs.

Have agreed as follows:

PART I
ARMAMENTS NOT TO BE MANUFACTURED
ARTICLE I

The High Contracting Parties, members of Western European Union, take note of and record their agreement with the Declaration of the Chancellor of the Federal Republic of Germany (made in London on 3rd October, 1954, and

annexed hereto as Annex I) in which the Federal Republic of Germany undertook not to manufacture in its territory atomic, biological and chemical weapons. The types of armaments referred to in this Article are defined in Annex II. These armaments shall be more closely defined and the definitions brought up to date by the Council of Western European Union.

Article II

The High Contracting Parties, members of Western European Union, also take note of and record their agreement with the undertaking given by the Chancellor of the Federal Republic of Germany in the same Declaration that certain further types of armaments will not be manufactured in the territory of the Federal Republic of Germany, except that if in accordance with the needs of the armed forces[14] a recommendation for an amendment to, or cancellation of, the content of the list of these armaments is made by the competent Supreme Commander of the North Atlantic Treaty Organisation, and if the Government of the Federal Republic of Germany submits a request accordingly, such an amendment or cancellation may be made by a resolution of the Council of Western European Union passed by a two-thirds majority. The types of armaments referred to in this Article are listed in Annex III.

PART II · ARMAMENTS TO BE CONTROLLED

Article III

When the development of atomic, biological and chemical weapons in the territory on the mainland of Europe of the High Contracting Parties who have not given up the right to produce them has passed the experimental stage and effective production of them has started there, the level of stocks that the High Contracting Parties concerned will be allowed to hold on the mainland of Europe shall be decided by a majority vote of the Council of Western European Union.

Article IV

Without prejudice to the foregoing Articles, the types of armaments listed in Annex IV will be controlled to the extent and in the manner laid down in Protocol No. IV.

Article V

The Council of Western European Union may vary the list in Annex IV by unanimous decision.

In witness whereof, the above-mentioned Plenipotentiaries have signed the present Protocol, being one of the Protocols listed in Article I of the Protocol Modifying and Completing the Treaty, and have affixed thereto their seals.

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[14] *In the French text the words "qui lui sont affectées" appear here.*

Done at Paris on the twenty-third day of October, 1954, in two texts, in the English and French languages, each text being equally authoritative, in a single copy, which shall remain deposited in the archives of the Belgian Government and of which certified copies shall be transmitted by that Government to each of the other Signatories.

For Belgium:
(L.S.) P.-H. SPAAK.

For France:
(L.S.) P. MENDÈS-FRANCE.

For the Federal Republic of Germany:
(L.S.) ADENAUER.

For Italy:
(L.S.) G. MARTINO.

For Luxembourg:
(L.S.) JOS. BECH.

For the Netherlands:
(L.S.) J. W. BEYEN.

For the United Kingdom of Great Britain and Northern Ireland:
(L.S.) ANTHONY EDEN.

ANNEX I

The Federal Chancellor declares:

that the Federal Republic undertakes not to manufacture in its territory any atomic weapons, chemical weapons or biological weapons, as detailed in paragraphs I, II and III of the attached list;[15]

that it undertakes further not to manufacture in its territory such weapons as those detailed in paragraphs IV, V and VI of the attached list.[16] Any amendment to or cancellation of the substance of paragraphs IV, V and VI[2] can, on the request of the Federal Republic, be carried out by a resolution of the Brussels Council of Ministers by a two-thirds majority, if in accordance with the needs of the armed forces a request is made by the competent Supreme Commander of the North Atlantic Treaty Organisation;

that the Federal Republic agrees to supervision by the competent authority of the Brussels Treaty Organisation to ensure that these undertakings are observed.

[15] Reproduced in Annex II.
[16] Reproduced in Annex III.

ANNEX II

This list comprises the weapons defined in paragraphs I to III and the factories earmarked solely for their production. All apparatus, parts, equipment, installations, substances and organisms, which are used for civilian purposes or for scientific, medical and industrial research in the fields of pure and applied science shall be excluded from this definition.

I. ATOMIC WEAPONS

(*a*) An atomic weapon is defined as any weapon which contains, or is designed to contain or utilise, nuclear fuel or radioactive isotopes and which, by explosion or other uncontrolled nuclear transformation of the nuclear fuel, or by radioactivity of the nuclear fuel or radioactive isotopes, is capable of mass destruction, mass injury or mass poisoning.

(*b*) Furthermore, any part, device, assembly or material especially designed for, or primarily useful in, any weapon as set forth under paragraph (*a*), shall be deemed to be an atomic weapon.

(*c*) Nuclear fuel as used in the preceding definition includes plutonium, Uranium 233, Uranium 235 (including Uranium 235 contained in Uranium enriched to over 2·1 per cent. by weight of Uranium 235) and any other material capable of releasing substantial quantities of atomic energy through nuclear fission or fusion or other nuclear reaction of the material. The foregoing materials shall be considered to be nuclear fuel regardless of the chemical or physical form in which they exist.

II. CHEMICAL WEAPONS

(*a*) A chemical weapon is defined as any equipment or apparatus expressly designed to use, for military purposes, the asphyxiating, toxic, irritant, paralysant, growth-regulating, anti-lubricating or catalysing properties of any chemical substance.

(*b*) Subject to the provisions of paragraph (*c*), chemical substances, having such properties and capable of being used in the equipment or apparatus referred to in paragraph (*a*), shall be deemed to be included in this definition.

(*c*) Such apparatus and such quantities of the chemical substances as are referred to in paragraphs (*a*) and (*b*) which do not exceed peaceful civilian requirements shall be deemed to be excluded from this definition.

III. BIOLOGICAL WEAPONS

(*a*) A biological weapon is defined as any equipment or apparatus expressly designed to use, for military purposes, harmful insects or other living or dead organisms, or their toxic products.

(*b*) Subject to the provisions of paragraph (*c*), insects, organisms and their toxic products of such nature and in such amounts as to make them capable of being used in the equipment or apparatus referred to in (*a*) shall be deemed to be included in this definition.

(*c*) Such equipment or apparatus and such quantities of the insects, organisms and their toxic products as are referred to in paragraphs (*a*) and (*b*) which do not exceed peaceful civilian requirements shall be deemed to be excluded from the definition of biological weapons.

ANNEX III

This list comprises the weapons defined in paragraphs IV to VI and the factories earmarked solely for their production. All apparatus, parts, equipment, installations, substances and organisms, which are used for civilian purposes or for scientific, medical and industrial research in the fields of pure and applied science shall be excluded from this definition.

IV. LONG-RANGE MISSILES, GUIDED MISSILES AND INFLUENCE MINES

(*a*) Subject to the provisions of paragraph (*d*), long-range missiles and guided missiles are defined as missiles such that the speed or direction of motion can be influenced after the instant of launching by a device or mechanism inside or outside the missile, including V-type weapons developed in the recent war and subsequent modifications thereof. Combustion is considered as a mechanism which may influence the speed.

(*b*) Subject to the provisions of paragraph (*d*), influence mines are defined as naval mines which can be exploded automatically by influences which emanate solely from external sources, including influence mines developed in the recent war and subsequent modifications thereof.

(*c*) Parts, devices or assemblies specially designed for use in or with the weapons referred to in paragraphs (*a*) and (*b*) shall be deemed to be included in this definition.

(*d*) Proximity fuses, and short-range guided missiles for anti-aircraft defence with the following maximum characteristics are regarded as excluded from this definition:

Length, 2 metres;

(*e*) Guided anti-tank missiles are also regarded as excluded from this definition.

Amendment adopted by Resolution of the Council of Western European Union of May 9, 1958.

V. WARSHIPS, WITH THE EXCEPTION OF SMALLER SHIPS FOR DEFENCE PURPOSES

(*a*) Warships of more than 3,000 tons displacement, with the exception of a training ship of 4,800 to 5,000 tons displacement;

Amendment adopted by Resolution of the Council of Western European Union of October 16, 1958.

VI. BOMBER AIRCRAFT FOR STRATEGIC PURPOSES

ANNEX IV

List of Types of Armaments to be Controlled

1. (*a*) Atomic,
   (*b*) biological, and
   (*c*) chemical weapons,

in accordance with definitions to be approved by the Council of Western European Union as indicated in Article I of the present Protocol.

2. All guns, howitzers and mortars of any types and of any rôles of more than 90 mm. calibre including the following component for these weapons, viz., the elevating mass.

3. All guided missiles.
   Definition : Guided missiles are such that the speed or direction of motion can be influenced after the instant of launching by a device or mechanism inside or outside the missile; these include V-type weapons developed in the recent war and modifications thereto. Combustion is considered as a mechanism which may influence the speed.

4. Other self-propelled missiles of a weight exceeding 15 kilogrammes in working order.

5. Mines of all types except anti-tank and anti-personnel mines.

6. Tanks, including the following component parts for these tanks, viz:
   (*a*) the elevating mass;
   (*b*) turret castings and/or plate assembly.

7. Other armoured fighting vehicles of an overall weight of more than 10 metric tons.

8. (*a*) Warships over 1,500 tons displacement;
   (*b*) submarines;
   (*c*) all warships powered by means other than steam, diesel or petrol engines or gas turbines;
   (*d*) small craft capable of a speed of over 30 knots, equipped with offensive armament.

9. Aircraft bombs of more than 1,000 kilogrammes.

10. Ammunition for the weapons described in paragraph 2 above.

11. (*a*) Complete military aircraft other than:
   (i) all training aircraft except operational types used for training purposes;
   (ii) military transport and communication aircraft;
   (iii) helicopters;
   (*b*) air frames, specifically and exclusively designed for military aircraft except those at (i), (ii) and (iii) above;

(*c*) jet engines, turbo-propeller engines and rocket motors, when these are the principal motive power.

Protocol No. IV on the Agency of Western European Union for the Control of Armaments

Signed at Paris on October 23, 1954; entered into force on May 6, 1955

His Majesty the King of the Belgians, the President of the French Republic, President of the French Union, the President of the Federal Republic of Germany, the President of the Italian Republic, Her Royal Highness the Grand Duchess of Luxembourg, Her Majesty the Queen of the Netherlands, Her Majesty The Queen of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories, Head of the Commonwealth, Signatories of the Protocol Modifying and Completing the Brussels Treaty,

Having agreed in accordance with Article IV of the Protocol Modifying and Completing the Treaty, to establish an Agency for the Control of Armaments,

Have appointed as their Plenipotentiaries:

His Majesty the King of the Belgians
His Excellency M. Paul-Henri Spaak, Minister of Foreign Affairs.

The President of the French Republic, President of the French Union
His Excellency M. Pierre Mendès-France, Prime Minister, Minister of Foreign Affairs.

The President of the Federal Republic of Germany
His Excellency Dr. Konrad Adenauer, Federal Chancellor, Federal Minister of Foreign Affairs.

The President of the Italian Republic
His Excellency M. Gaetano Martino, Minister of Foreign Affairs.

Her Royal Highness the Grand Duchess of Luxembourg
His Excellency M. Joseph Bech, Prime Minister, Minister of Foreign Affairs.

Her Majesty the Queen of the Netherlands
His Excellency M. Johan Willem Beyen, Minister of Foreign Affairs.

Her Majesty The Queen of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories, Head of the Commonwealth

For the United Kingdom of Great Britain and Northern Ireland
The Right Honourable Sir Anthony Eden, K.G., M.C., Member of Parliament, Principal Secretary of State for Foreign Affairs.

Have agreed as follows:

PART I · CONSTITUTION

ARTICLE I

The Agency for the Control of Armaments (hereinafter referred to as "the Agency") shall be responsible to the Council of Western European Union (hereinafter referred to as "the Council"). It shall consist of a Director assisted by a Deputy Director, and supported by a staff drawn equitably from nationals of the High Contracting Parties, Members of Western European Union.

ARTICLE II

The Director and his staff, including any officials who may be put at the disposal of the Agency by States Members, shall be subject to the general administrative control of the Secretary-General of Western European Union.

ARTICLE III

The Director shall be appointed by unanimous decision of the Council for a period of five years and shall not be eligible for reappointment. He shall be responsible for the selection of his staff in accordance with the principle mentioned in Article I and in consultation with the individual States Members concerned. Before filling the posts of Deputy Director and of the Heads of Departments of the Agency, the Director shall obtain from the Council approval of the persons to be appointed.

ARTICLE IV

1. The Director shall submit to the Council, through the Secretary-General, a plan for the organisation of the Agency. The organisation should provide for departments dealing respectively with:
   (*a*) the examination of statistical and budgetary information to be obtained from the members of Western European Union and from the appropriate NATO authorities;
   (*b*) inspections, test checks and visits;
   (*c*) administration.
2. The organisation may be modified by decision of the Council.

ARTICLE V

The costs of maintaining the Agency shall appear in the budget of Western European Union. The Director shall submit, through the Secretary-General, to the Council an annual estimate of these costs.

ARTICLE VI

Officials of the Agency shall be bound by the full NATO code of security. They shall in no circumstances reveal information obtained in connexion with the execution of their official tasks except and only in the performance of their duties towards the Agency.

PART II · FUNCTIONS

ARTICLE VII

1. The tasks of the Agency shall be:

   (*a*) to satisfy itself that the undertakings set out in Protocol No. III not to manufacture certain types of armaments mentioned in Annexes II and III to that Protocol are being observed;

   (*b*) to control, in accordance with Part III of the present Protocol, the level of stocks of armaments of the types mentioned in Annex IV to Protocol No. III held by each member of Western European Union on the mainland of Europe. This control shall extend to production and imports to the extent required to make the control of stocks effective.

2. For the purposes mentioned in paragraph 1 of this Article, the Agency shall:

   (*a*) scrutinise statistical and budgetary information supplied by members of Western European Union and by the NATO authorities;

   (*b*) undertake on the mainland of Europe test checks, visits and inspections at production plants, depots and forces (other than depots or forces under NATO authority);

   (*c*) report to the Council.

ARTICLE VIII

With respect to forces and depots under NATO authority, test checks, visits and inspections shall be undertaken by the appropriate authorities of the North Atlantic Treaty Organisation. In the case of the forces and depots under the Supreme Allied Commander, Europe, the Agency shall receive notification of the information supplied to the Council through the medium of the high-ranking officer to be designated by him.

ARTICLE IX

The operations of the Agency shall be confined to the mainland of Europe.

ARTICLE X

The Agency shall direct its attention to the production of end-items and components listed in Annexes II, III and IV of Protocol No. III, and not to processes. It shall ensure that materials and products destined for civilian use are excluded from its operations.

ARTICLE XI

Inspections by the Agency shall not be of a routine character, but shall be in the nature of tests carried out at irregular intervals. Such inspections shall be conducted in a spirit of harmony and co-operation. The Director shall propose to the Council detailed regulations for the conduct of the inspections providing, *inter alia*, for due process of law in respect of private interests.

ARTICLE XII

For their test checks, visits and inspections the members of the Agency shall be accorded free access on demand to plants and depots, and the relevant accounts and documents shall be made available to them. The Agency and national authorities shall co-operate in such checks and inspections, and in particular national authorities may, at their own request, take part in them.

PART III · LEVELS OF STOCKS OF ARMAMENTS

ARTICLE XIII

1. Each member of Western European Union shall, in respect of its forces under NATO authority stationed on the mainland of Europe, furnish annually to the Agency statements of:

(*a*) the total quantities of armaments of the types mentioned in Annex IV to Protocol No. III required in relation to its forces;

(*b*) the quantities of such armaments currently held at the beginning of the control years;

(*c*) the programmes for attaining the total quantities mentioned in (*a*) by:

(i) manufacture in its own territory;

(ii) purchase from another country;

(iii) end-item aid from another country.

2. Such statements shall also be furnished by each member of Western European Union in respect of its internal defence and police forces and its other forces under national control stationed on the mainland of Europe including a statement of stocks held there for its forces stationed overseas.

3. The statements shall be correlated with the relevant submissions to the North Atlantic Treaty Organisation.

ARTICLE XIV

As regards the forces under NATO authority, the Agency shall verify in consultation with the appropriate NATO authorities that the total quantities stated under Article XIII are consistent with the quantities recognised as required by the units of the members concerned under NATO authority, and with the conclusions and data recorded in the documents approved by the North Atlantic Council in connexion with the NATO Annual Review.

ARTICLE XV

As regards internal defence and police forces, the total quantities of their armaments to be accepted as appropriate by the Agency shall be those notified

by the members, provided that they remain within the limits laid down in the further agreements to be concluded by the members of Western European Union on the strength and armaments of the internal defence and police forces on the mainland of Europe.

ARTICLE XVI

As regards other forces remaining under national control, the total quantities of their armaments to be accepted as appropriate by the Agency shall be those notified to the Agency by the members.

ARTICLE XVII

The figures furnished by members for the total quantities of armaments under Articles XV and XVI shall correspond to the size and mission of the forces concerned.

ARTICLE XVIII

The provisions of Articles XIV and XVII shall not apply to the High Contracting Parties and to the categories of weapons covered in Article III of Protocol No. III. Stocks of the weapons in question shall be determined in conformity with the procedure laid down in that Article and shall be notified to the Agency by the Council of the Western European Union.

ARTICLE XIX

The figures obtained by the Agency under Articles XIV, XV, XVI and XVIII shall be reported to the Council as appropriate levels for the current control year for the members of Western European Union. Any discrepancies between the figures stated under Article XIII, paragraph 1, and the quantities recognised under Article XIV will also be reported.

ARTICLE XX

1. The Agency shall immediately report to the Council if inspection, or information from other sources reveals:

   (*a*) the manufacture of armaments of a type which the member concerned has undertaken not to manufacture;

   (*b*) the existence of stocks of armaments in excess of the figures and quantities ascertained in accordance with Articles XIX and XXII.

2. If the Council is satisfied that the infraction reported by the Agency is not of major importance and can be remedied by prompt local action, it will so inform the Agency and the member concerned, who will take the necessary steps.

3. In the case of other infractions, the Council will invite the member concerned to provide the necessary explanation within a period to be determined by the Council; if this explanation is considered unsatisfactory, the Council will take the measures which it deems necessary in accordance with a procedure to be determined.

4. Decisions of the Council under this Article will be taken by majority vote.

ARTICLE XXI

Each member shall notify to the Agency the names and locations of the depots on the mainland of Europe containing armaments subject to control and of the plants on the mainland of Europe manufacturing such armaments, or, even though not in operation, specifically intended for the manufacture of such armaments.

ARTICLE XXII

Each member of Western European Union shall keep the Agency informed of the quantities of armaments of the types mentioned in Annex IV to Protocol No. III, which are to be exported from its territory on the mainland of Europe. The Agency shall be entitled to satisfy itself that the armaments concerned are in fact exported. If the level of stocks of any item subject to control appears abnormal, the Agency shall further be entitled to enquire into the orders for export.

ARTICLE XXIII

The Council shall transmit to the Agency information received from the Governments of the United States of America and Canada respecting military aid to be furnished to the forces on the mainland of Europe of members of Western European Union.

In witness whereof, the above-mentioned Plenipotentiaries have signed the Present Protocol, being one of the Protocols listed in Article I of the Protocol Modifying and Completing the Treaty, and have affixed thereto their seals.

Done at Paris this twenty-third day of October, 1954, in two texts, in the English and French languages, each text being equally authoritative, in a single copy, which shall remain deposited in the archives of the Belgian Government and of which certified copies shall be transmitted by that Government to each of the other Signatories.

For Belgium:
(L.S.) P.-H. SPAAK.

For France:
(L.S.) P. MENDÈS-FRANCE.

For the Federal Republic of Germany:
(L.S.) ADENAUER.

For Italy:
(L.S.) G. MARTINO.

For Luxembourg:
(L.S.) JOS. BECH.

For the Netherlands:
(L.S.) J. W. BEYEN.

For the United Kingdom of Great Britain and Northern Ireland:
(L.S.) ANTHONY EDEN.

Annex VI

The Final Act of the Nine-Power Conference, held in London between September 28 and October 3, 1954

The Conference of the Nine Powers, Belgium, Canada, France, the Federal Republic of Germany, Italy, Luxembourg, Netherlands, the United Kingdom of Great Britain and Northern Ireland and the United States of America met in London from Tuesday the Twenty-eighth of September, Nineteen hundred and Fifty-four, to Sunday the Third of October, Nineteen hundred and Fifty-four. It dealt with the most important issues facing the Western world, security and European integration within the framework of a developing Atlantic community dedicated to peace and freedom. In this connexion the Conference considered how to assure the full association of the Federal Republic of Germany with the West and the German Defence contribution.

Belgium was represented by His Excellency Monsieur P.-H. Spaak.

Canada was represented by the Honourable L. B. Pearson.

France was represented by His Excellency Monsieur P. Mendès-France.

The Federal Republic of Germany was represented by His Excellency Dr. K. Adenauer.

Italy was represented by His Excellency Professor G. Martino.

Luxembourg was represented by His Excellency Monsieur J. Bech.

The Netherlands was represented by His Excellency Dr. J. W. Beyen.

The United Kingdom of Great Britain and Northern Ireland was represented by the Rt. Hon. A. Eden, M.C., M.P.

The United States of America was represented by the Honourable J. F. Dulles.

All the decisions of the Conference formed part of one general settlement which is, directly or indirectly, of concern to all the North Atlantic Treaty Organisation Powers, and which will therefore be submitted to the North Atlantic Council for information or decision.

I. GERMANY

The Governments of France, the United Kingdom and the United States declare that their policy is to end the Occupation régime in the Federal Republic as soon as possible, to revoke the Occupation Statute and to abolish the Allied High Commission. The Three Governments will continue to discharge certain responsibilities in Germany arising out of the international situation.

It is intended to conclude, and to bring into force as soon as the necessary parliamentary procedures have been completed, the appropriate instruments for these purposes. General agreement has already been reached on the

content of these instruments, and representatives of the Four Governments will meet in the very near future to complete the final texts. The agreed arrangements may be put into effect either before or simultaneously with the arrangements for the German defence contribution.

As these arrangements will take a little time to complete, the Three Governments have in the meantime issued the following Declaration of Intent:

"Recognising that this great country can no longer be deprived of the rights properly belonging to a free and democratic people; and

Desiring to associate the Federal Republic of Germany on a footing of equality with their efforts for peace and security;

The Governments of France, the United Kingdom, and the United States of America desire to end the Occupation régime as soon as possible.

The fulfilment of this policy calls for the settlement of problems of detail in order to liquidate the past and to prepare for the future, and requires the completion of appropriate parliamentary procedures.

In the meantime, the Three Governments are instructing their High Commissioners to act forthwith in accordance with the spirit of the above policy. In particular, the High Commissioners will not use the powers which are to be relinquished unless in agreement with the Federal Government, except in the fields of disarmament and demilitarisation and in cases where the Federal Government has not been able for legal reasons to take the action or assume the obligations contemplated in the agreed arrangement."

II. BRUSSELS TREATY

The Brussels Treaty will be strengthened and extended to make it a more effective focus of European integration.

For this purpose the following arrangements have been agreed upon:

(*a*) The Federal Republic of Germany and Italy will be invited to accede to the Treaty, suitably modified to emphasise the objective of European unity, and they have declared themselves ready to do so. The system of mutual automatic assistance in case of attack will thus be extended to the Federal Republic of Germany and Italy.

(*b*) The structure of the Brussels Treaty will be reinforced. In particular, the Consultative Council provided in the Treaty will become a Council with powers of decision.

(*c*) The activities of the Brussels Treaty Organisation will be extended to include further important tasks as follows:

The size and general characteristics of the German defence contribution will conform to the contribution fixed for EDC.

The maximum defence contribution to NATO of all members of the Brussels Treaty Organisation will be determined by a special agreement fixing levels which can only be increased by unanimous consent.

The strength and armaments of the internal defence forces and the

police on the Continent of the countries members of the Brussels Treaty Organisation will be fixed by agreements within that Organisation, having regard to their proper functions and to existing levels and needs.

The Brussels Treaty Powers agree to set up, as part of the Brussels Treaty Organisation, an Agency for the control of armaments on the Continent of Europe of the continental members of the Brussels Treaty Organisation. The detailed provisions are as follows:

1. The functions of the Agency shall be:
   (*a*) to ensure that the prohibition of the manufacture of certain types of armaments as agreed between the Brussels Powers is being observed;
   (*b*) to control the level of stocks held by each country on the Continent of the types of armaments mentioned in the following paragraph. This control shall extend to production and imports to the extent required to make the control of stocks effective.

2. The types of armament to be controlled under 1 (*b*) above shall be:
   (*a*) weapons in categories I, II and III listed in Annex II to Article 107 of the EDC Treaty;
   (*b*) weapons in the other categories listed in Annex II to Article 107 of the EDC Treaty;
   (*c*) a list of major weapons taken from Annex I to the same Article, to be established hereafter by an expert working group.

   Measures will be taken to exclude from control materials and products in the above lists for civil use.

3. As regards the weapons referred to under paragraph 2 (*a*) above, when the countries which have not given up the right to produce them have passed the experimental stage and start effective production, the level of stocks that they will be allowed to hold on the Continent shall be decided by the Brussels Treaty Council by a majority vote.

4. The continental members of the Brussels Treaty Organisation agree not to build up stocks nor to produce the armaments mentioned in paragraph 2 (*b*) and (*c*) beyond the limits required (*a*) for the equipment of their forces, taking into account any imports including external aid, and (*b*) for export.

5. The requirements for their NATO forces shall be established on the basis of the results of the Annual Review and the recommendations of the NATO military authorities.

6. For forces remaining under national control, the level of stocks must correspond to the size and mission of those forces. That level shall be notified to the Agency.

7. All imports or exports of the controlled arms will be notified to the Agency.

8. The Agency will operate through the collation and examination of statistical and budgetary data. It will undertake test checks and will make such visits and inspections as may be required to fulfil its functions as defined in paragraph 1 above.

9. The basic rules of procedure for the Agency shall be laid down in a Protocol to the Brussels Treaty.

10. If the Agency finds that the prohibitions are not being observed, or that the appropriate level of stocks is being exceeded, it will so inform the Brussels Council.

11. The Agency will report and be responsible to the Brussels Council which will take its decisions by a majority vote on questions submitted by the Agency.

12. The Brussels Council will make an Annual Report on its activities concerning the control of armaments to the Delegates of the Brussels Treaty Powers to the Consultative Assembly of the Council of Europe.

13. The Governments of the United States of America and Canada will notify the Brussels Treaty Organisation of the military aid to be distributed to the continental members of that Organisation. The Organisation may make written observations.

14. The Brussels Council will establish a Working Group in order to study the draft directive presented by the French Government and any other papers which may be submitted on the subject of armaments production and standardisation.

15. The Brussels Treaty Powers have taken note of the following Declaration of the Chancellor of the Federal Republic of Germany and record their agreement with it:

"The Federal Chancellor declares:

that the Federal Republic undertakes not to manufacture in its territory any atomic weapons, chemical weapons or biological weapons, as detailed in paragraphs I, II and III of the attached list;

that it undertakes further not to manufacture in its territory such weapons as those detailed in paragraphs IV, V and VI of the attached list. Any amendment to or cancellation of the substance of paragraphs IV, V and VI can, on the request of the Federal Republic, be carried out by a resolution of the Brussels Council of Ministers by a two-thirds majority, if in accordance with the needs of the armed forces a request is made by the competent supreme Commander of NATO;

that the Federal Republic agrees to supervision by the competent authority of the Brussels Treaty Organisation to ensure that these undertakings are observed."

Annex VII

List appended to the Declaration by the Federal Chancellor

This list comprises the weapons defined in paragraphs I to VI and the factories earmarked solely for their production. All apparatus, parts, equipment, installations, substances and organisms which are used for civilian purposes or for scientific, medical and industrial research in the fields of pure and applied science shall be excluded from this definition.

I. ATOMIC WEAPONS

(*a*) An atomic weapon is defined as any weapon which contains, or is designed to contain or utilise, nuclear fuel or radioactive isotopes and which, by explosion or other uncontrolled nuclear transformation of the nuclear fuel, or by radioactivity of the nuclear fuel or radioactive isotopes, is capable of mass destruction, mass injury or mass poisoning.

(*b*) Furthermore, any part, device, assembly or material especially designed for, or primarily useful in, any weapon as set forth under paragraph (*a*), shall be deemed to be an atomic weapon.

(*c*) Nuclear fuel as used in the preceding definition includes plutonium, Uranium 233, Uranium 235 (including Uranium 235 contained in Uranium enriched to over 2·1 per cent by weight of Uranium 235) and any other material capable of releasing substantial quantities of atomic energy through nuclear fission or fusion or other nuclear reaction of the material. The foregoing materials are considered to be nuclear fuel regardless of the chemical or physical form in which they exist.

II. CHEMICAL WEAPONS

(*a*) A chemical weapon is defined as any equipment or apparatus expressly designed to use, for military purposes, the asphyxiating, toxic, irritant, paralysant, growth-regulating, anti-lubricating or catalyzing properties of any chemical substance.

(*b*) Subject to the provisions of paragraph (*c*), chemical substances, having such properties and capable of being used in the equipment or apparatus referred to in paragraph (*a*), shall be deemed to be included in this definition.

(*c*) Such equipment or apparatus and such quantities of the chemical substances as are referred to in paragraphs (*a*) and (*b*) which do not exceed peaceful civilian requirements shall be deemed to be excluded from this definition.

III. BIOLOGICAL WEAPONS

(*a*) A biological weapon is defined as any equipment or apparatus expressly designed to use, for military purposes, harmful insects or other living or dead organisms, or their toxic products.

(*b*) Subject to the provisions of paragraph (*c*), insects, organisms and their toxic products of such nature and in such amounts as to make them capable

of being used in the equipment or apparatus referred to in (*a*) shall be deemed to be included in this definition.

(*c*) Such equipment or apparatus and such quantities of the insects, organisms and their toxic products as are referred to in paragraphs (*a*) and (*b*) which do not exceed peaceful civilian requirements shall be deemed to be excluded from the definition of biological weapons.

IV. LONG-RANGE MISSILES, GUIDED MISSILES, AND INFLUENCE MINES

(*a*) Subject to the provisions of paragraph (*d*), long-range missiles and guided missiles are defined as missiles such that the velocity or direction of motion can be influenced after the instant of launch by a device or mechanism inside or outside the missile, including V-type weapons developed in the recent war and subsequent modifications thereof. Combustion is considered as mechanism which may influence the velocity.

(*b*) Subject to the provisions of paragraph (*d*), influence mines are defined as naval mines which can be exploded automatically by influences which emanate solely from external sources, including influence mines developed in the recent war and subsequent modifications thereof.

(*c*) Parts, devices or assemblies specially designed for use in or with the weapons referred to in paragraphs (*a*) and (*b*) shall be deemed to be included in these definitions.

(*d*) Proximity fuses, and short-range guided missiles for anti-aircraft defence with the following maximum characteristics, are regarded as excluded from this definition:

Length, 2 metres;
Diameter, 30 centimetres;
Velocity, 660 metres per second;
Ground range, 32 kilometres;
Weight of war-head, 22·5 kilogrammes.

V. WARSHIPS, WITH THE EXCEPTION OF SMALLER SHIPS FOR DEFENCE PURPOSES

"Warships, with the exception of smaller ships for defence purposes" are:

(*a*) Warships of more than 3,000 tons displacement.

(*b*) Submarines of more than 350 tons displacement.

(*c*) All warships which are driven by means other than steam, diesel or petrol engines or by gas turbines or by jet engines.

VI. BOMBER AIRCRAFT FOR STRATEGIC PURPOSES

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The closest possible co-operation with NATO shall be established in all fields.

Annex VIII

POTSDAM DECLARATION[1]

Proclamation Defining Terms for Japanese Surrender
Issued, at Potsdam, July 26, 1945

(1) We - the President of the United States, the President of the National Government of the Republic of China, and the Prime Minister of Great Britain, representing the hundreds of millions of our countrymen, have conferred and agree that Japan shall be given an opportunity to end this war.

(2) The prodigious land, sea and air forces of the United States, the British Empire and of China, many times reinforced by their armies and air fleets from the west, are poised to strike the final blows upon Japan. This military power is sustained and inspired by the determination of all the Allied Nations to prosecute the war against Japan until she ceases to resist.

(3) The result of the futile and senseless German resistance to the might of the aroused free peoples of the world stands forth in awful clarity as an example to the people of Japan. The might that now converges on Japan is immeasurably greater than that which, when applied to the resisting Nazis, necessarily laid waste to the lands, the industry and the method of life of the whole German people. The full application of our military power, backed by our resolve, *will* mean the inevitable and complete destruction of the Japanese armed forces and just as inevitably the utter devastation of the Japanese homeland.

(4) The time has come for Japan to decide whether she will continue to be controlled by those self-willed militaristic advisers whose unintelligent calculations have brought the Empire of Japan to the threshold of annihilation, or whether she will follow the path of reason.

(5) Following are our terms. We will not deviate from them. There are no alternatives. We shall brook no delay.

(6) There must be eliminated for all time the authority and influence of those who have deceived and misled the people of Japan into embarking on world conquest, for we insist that a new order of peace, security and justice will be impossible until irresponsible militarism is driven from the world.

(7) Until such a new order is established *and* until there is convincing proof that Japan's war-making power is destroyed, points in Japanese territory to be designated by the Allies shall be occupied to secure the achievement of the basic objectives we are here setting forth.

(8) The terms of the Cairo Declaration shall be carried out and Japanese sovereignty shall be limited to the islands of Honshu, Hokkaido, Kyushu, Shikoku and such minor islands as we determine.

(9) The Japanese military forces, after being completely disarmed, shall be permitted to return to their homes with the opportunity to lead peaceful and productive lives.

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[1] The Department of State Bulletin, Vol. XIII, No. 318, July 29, 1945, p. 137. This proclamation issued on July 26, 1945, by the heads of governments of the United States, United Kingdom, and China was signed by the President of the United States and the Prime Minister of the United Kingdom at Potsdam and concurred in by the President of the National Government of China, who communicated with President Truman by despatch.

(10) We do not intend that the Japanese shall be enslaved as a race or destroyed as a nation, but stern justice shall be meted out to all war criminals, including those who have visited cruelties upon our prisoners. The Japanese Government shall remove all obstacles to the revival and strengthening of democratic tendencies among the Japanese people. Freedom of speech, of religion, and of thought, as well as respect for the fundamental human rights shall be established.

(11) Japan shall be permitted to maintain such industries as will sustain her economy and permit the exaction of just reparations in kind, but not those which would enable her to re-arm for war. To this end, access to, as distinguished from control of, raw materials shall be permitted. Eventual Japanese participation in world trade relations shall be permitted.

(12) The occupying forces of the Allies shall be withdrawn from Japan as soon as these objectives have been accomplished and there has been established in accordance with the freely expressed will of the Japanese people a peacefully inclined and responsible government.

(13) We call upon the government of Japan to proclaim now the unconditional surrender of all Japanese armed forces, and to provide proper and adequate assurances of their good faith in such action. The alternative for Japan is prompt and utter destruction.

Source: Foreign Ministry of Japan (ed.), *Documents Concerning the Allied Occupation and Control of Japan*, Vol. 1, 1949.

Annex IX

INSTRUMENT OF SURRENDER

Signed at Tokyo Bay, September 2, 1945

We, acting by command of and in behalf of the Emperor of Japan, the Japanese Government and the Japanese Imperial General Headquarters, hereby accept the provisions set forth in the declaration issued by the heads of the Governments of the United States, China and Great Britain on 26 July 1945, at Potsdam, and subsequently adhered to by the Union of Soviet Socialist Republics, which four powers are hereafter referred to as the Allied Powers.

We hereby proclaim the unconditional surrender to the Allied Powers of the Japanese Imperial General Headquarters and of all Japanese armed forces and all armed forces under Japanese control wherever situated.

We hereby command all Japanese forces wherever situated and the Japanese people to cease hostilities forthwith, to preserve and save from damage all ships, aircraft, and military and civil property and to comply with all requirements which may be imposed by the Supreme Commander for the Allied Powers or by agencies of the Japanese Government at his direction.

We hereby command the Japanese Imperial General Headquarters to issue at once orders to the Commanders of all Japanese forces and all forces under Japanese control wherever situated to surrender unconditionally themselves and all forces under their control.

We hereby command all civil, military and naval officials to obey and enforce all proclamations, orders and directives deemed by the Supreme Commander for the Allied Powers to be proper to effectuate this surrender and issued by him or under his authority and we direct all such officials to remain at their posts and to continue to perform their non-combatant duties unless specifically relieved by him or under his authority.

We hereby undertake for the Emperor, the Japanese Government and their successors to carry out the provisions of the Potsdam Declaration in good faith, and to issue whatever orders and take whatever action may be required by the Supreme Commander for the Allied Powers or by any other designated representative of the Allied Powers for the purpose of giving effect to that Declaration.

We hereby command the Japanese Imperial Government and the Japanese Imperial General Headquarters at once to liberate all allied prisoners of war and civilian internees now under Japanese control and to provide for their protection, care, maintenance and immediate transportation to places as directed.

The authority of the Emperor and the Japanese Government to rule the state shall be subject to the Supreme Commander for the Allied Powers who will take such steps as he deems proper to effectuate these terms of surrender.

Signed at TOKYO BAY, JAPAN at *0904 I* on the SECOND day of SEPTEMBER 1945.

重　光　　葵

By Command and in behalf of the Emperor of Japan and the Japanese Government.

梅　津　美　治　郎

By Command and in behalf of the Japanese Imperial General Headquarters.

Accepted at TOKYO BAY, JAPAN at *0908 I* on the SECOND day of SEPTEMBER, 1945, for the United States, Republic of China, United Kingdom and the Union of Soviet Socialist Republics, and in the interests of the other United Nations at war with Japan.

DOUGLAS MACARTHUR
Supreme Commander for the Allied Powers.

C.W. NIMITZ
United States Representative

徐　　永　　昌
Republic of China Representative

BRUCE FRASER
United Kingdom Representative

ГЕНЕРАЛІ-ЛЕЙТЕНАНТ К. ДЕРЕВЯНКО
Union of Soviet Socialist Republics Representative

T.A. BLAMEY
Commonwealth of Australia Representative

L. MOORE COSGRAVE
Dominion of Canada Representative

LE CLERC
Provisional Government of the French Republic Representative

C.E.L. HELFRICH
Kingdom of the Netherlands Representative

L.M. ISITT
Dominion of New Zealand Representative

DIRECTIVE No. 1
OFFICE OF THE SUPREME COMMANDER FOR THE ALLIED POWERS

DIRECTIVE)
)
NUMBER 1)

2 September 1945

Pursuant to the provisions of the Instrument of Surrender signed by representatives of the Emperor of Japan and the Japanese Imperial Government and of the Japanese Imperial General Headquarters, 2 September 1945, the attached "General Order Number 1, Military and Naval" and any necessary amplifying instructions, will be issued without delay to Japanese and Japanese controlled Armed Forces and to affected civilian agencies, for their full and complete compliance.

By direction of the Supreme Commander for the Allied Powers:

R.K. SUTHERLAND,
Lieutenant General, US Army,
Chief of Staff.

I incl:
GENERAL ORDER NO. 1,
Military and Naval.

General Order No. 1

Military and Naval

I. The Imperial General Headquarters by direction of the Emperor, and pursuant to the surrender to the Supreme Commander for the Allied Powers of all Japanese Armed Forces by the Emperor, hereby orders all of its Commanders in Japan and abroad to cause the Japanese Armed Forces and Japanese-controlled Forces under command to cease hostilities at once, to lay down their arms, to remain in their present locations and to surrender unconditionally to Commanders acting on behalf of the United States, the Republic of China, the United Kingdom and the British Empire, and the Union of Soviet Socialist Republics, as indicated hereafter or as may be further directed by the Supreme Commander for the Allied Powers. Immediate contact will be made with the indicated Commanders, or their designated representatives, subject to any changes in detail prescribed by the Supreme Commander for the Allied Powers, and their instructions will be completely and immediately carried out.

(a) The senior Japanese Commanders and all ground, sea, air and auxiliary forces within China (excluding Manchuria), Formosa and French Indo-China North of 16 degrees North latitude, shall surrender to Generalissimo Chiang Kai-Shek.

(b) The senior Japanese Commanders and all ground, sea, air and auxiliary forces within Manchuria, korea North of 38 degrees North latitude, Karafuto, and the Kurile Islands, shall surrender to the Commander-in-Chief of Soviet Forces in the Far East.

(c) (1) The senior Japanese Commanders and all ground, sea, air and auxiliary forces within the Andamans, Nicobars, Burma, Thailand, French Indo-China South of 16 degrees North latitude, Malaya, Sumatra, Java, Lesser Sundas (including Bali, Lombok, and Timor), Boeroe, Ceram, Ambon, Kai, Aroe, Tanimbar and islands in the Arafura Sea, Celebes, Halmahera and Dutch New Guinea shall surrender to the Supreme Allied Commander, South East Asia Command.

(2) The senior Japanese Commanders and all ground, sea, air and auxiliary forces within Borneo, British New Guinea, the Bismarcks and the Solomons shall surrender to the Commander-in-Chief, Australian Military Forces.

(d) The senior Japanese Commanders and all ground, sea, air and auxiliary forces in the Japanese mandated Islands, Bonins, and other Pacific Islands shall surrender to the Commander-in-Chief, US Pacific Fleet.

(e) The Imperial General Headquarters, its Senior Commanders, and all ground, sea, air and auxiliary forces in the main islands of Japan, minor islands adjacent thereto, Korea South of 38 degrees North latitude, Ryukyus, and the Philippines shall surrender to the Commander-in-Chief, US Army Forces, Pacific.

(f) The above indicated Commanders are the only representatives of the Allied Powers empowered to accept surrender, and all surrenders of Japanese Forces shall be made only to them or to their representatives.

The Japanese Imperial General Headquarters further orders its Commanders in Japan and abroad to disarm completely all forces of Japan or under Japanese control wherever they may be situated, and to deliver intact and in safe and good condition all weapons and equipment at such times and at such places as may be prescribed by the Allied Commanders indicated above.

Pending further instructions, the Japanese Police Force in the main islands of Japan will be exempt from this disarmament provision. The policy Force will remain at their posts and shall be held responsible for the preservation of Law and Order. The strength and arms of such Police Force will be prescribed.

II. The Japanese Imperial General Headquarters shall furnish to the Supreme Commander for the Allied Powers, without delay after receipt of this order, complete information with respect to Japan and all areas under Japanese control, as follows:

(a) Lists of all land, naval, air and anti-aircraft unit showing locations and strengths in Officers and Men.

(b) Lists of all aircraft, Military, Naval and Civil, giving complete information as to the number, type, location and condition of such aircraft.

(c) Lists of all Japanese and Japanese-controlled Naval Vessels, surface and submarine and Auxiliary Naval Craft, in or out of commission and under construction, giving their positions, condition and movement.

(d) Lists of all Japanese and Japanese-controlled Merchant Ships of over 100 gross tons, in or out of commission and under construction, including Merchant Ships formerly belonging to any of the United Nations which are now in Japanese hands, giving their positions, condition and movement.

(e) Complete and detailed information, accompanied by maps, showing locations and layouts of all mines, minefields, and other obstacles to movement by land, sea or air, and the safety lanes in connection therewith.

(f) Locations and descriptions of all military installations and establishments, including airfields, seaplane bases, anti-aircraft defenses, ports and naval bases, storage depots, permanent and temporary land and coast fortifications, fortresses and other fortified areas.

(g) Locations of all camps and other places of detention of United Nations Prisoners of War and Civilian Internees.

III. Japanese Armed Forces and Civil Aviation Authorities will insure that all Japanese Military, Naval and Civil Aircraft remain on the ground, on the water, or aboard ship, until further notification of the disposition to be made of them.

IV. Japanese or Japanese-controlled Naval or Merchant vessels of all types will be maintained without damage and will undertake no movement pending instructions from the Supreme Commander for the Allied Powers. Vessels at sea will immediately render harmless and throw overboard explosives of all types. Vessels not at sea will immediately remove explosives of all types to safe storage ashore.

V. Responsible Japanese or Japanese-controlled Military and Civil Authorities will insure that:

(a) All Japanese mines, minefields and other obstacles to movement by land, sea and air, wherever located, be removed according to instructions of the Supreme Commander for the Allied Powers.

(b) All aids to navigation be reestablished at once.

(c) All safety lanes be kept open and clearly marked pending accomplishment of (a) above.

VI. Responsible Japanese and Japanese-controlled Military and Civil Authorities will hold intact and in good condition pending further instructions from the Supreme Commander for the Allied Powers the following:

(a) All arms, ammunition, explosives, military equipment, stores and supplies, and other implements of war of all kinds and all other war material (except as specifically prescribed in section IV of this order).

(b) All land, water and ir transportation and communication facilities and equipment.

(c) All Military installations and establishments, including airfields, seaplane bases, anti-aircraft defenses, ports and naval bases, storage depots, permanent and temporary land and coast fortifications, fortresses and other fortified areas, together with plans and drawings of all such fortifications, installations and establishments.

(d) All factories, plants, shops, research institutions, laboratories, testing stations, technical data, patents, plans, drawings and inventions designed or intended to produce or to facilitate the production or use of all implements of war and other material and property used by or intended for use by any military or paramilitary organization in connection with its operations.

VII. The Japanese Imperial General Headquarters shall furnish to the Supreme Commander for the Allied Powers, without delay after receipt of this order, complete lists of all the items specified in paragraphs (a), (b), and (d) of section VI above, indicating the numbers, types and locations of each.

VIII. The manufacture and distribution of all arms, ammunition and implements of war will cease forthwith.

IX. With respect to United Nations Prisoners of War and Civilian Internees in the hands of Japanese or Japanese-controlled authorities:

(a) The safety and well-being of all United Nations Prisoners of War and Civilian Internees will be scrupulously preserved, to include the administrative and supply services essential to provide adequate food, shelter, clothing, and medical care until such responsibility is undertaken by the Supreme Commander for the Allied Powers.

(b) Each camp or other place of detention of United Nations Prisoners of War and Civilian Internees together with its equipment, stores, records, arms, and ammunition, will be delivered immediately to the command of the senior officer or designated representative of the Prisoners of War and Civilian Internees.

(c) As directed by the Supreme Commander for the Allied Powers, Prisoners of War and Civilian Internees will be transported to places of safety where they can be accepted by Allied authorities.

(d) The Japanese Imperial General Headquarters will furnish to the Supreme Commander for the Allied Powers, without delay after receipt of this order, complete lists of all United Nations Prisoners of War and Civilian Internees, indicating their locations.

X. All Japanese and Japanese-controlled Military and Civil Authorities shall aid and assist the occupation of Japan and Japanese-controlled areas by forces of the Allied Powers.

XI. The Japanese Imperial General Headquarters and appropriate Japanese Officials shall be prepared, on instructions from Allied Occupation Commanders, to collect and deliver all arms in the possession of the Japanese Civilian populations.

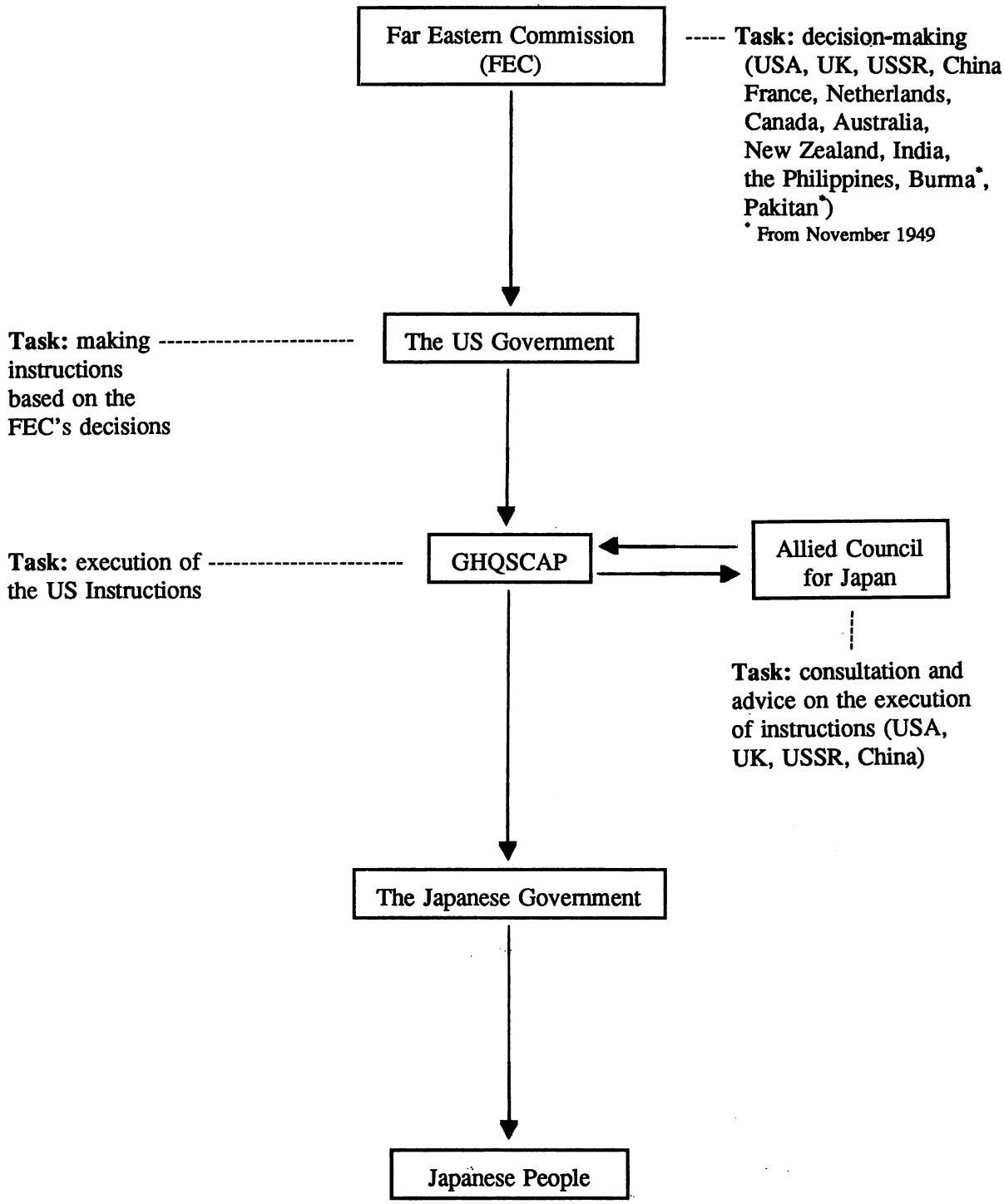
XII. This and all subsequent instructions issued by the Supreme Commander for the Allied Powers or other Allied Military Authorities will be scrupulously and promptly obeyed by Japanese and Japanese-controlled Military and Civil Official and private persons. Any delay or failure to comply with the provisions of this or subsequent orders, and any action which the Supreme Commander for the Allied Powers determines to be detrimental to the Allied Powers, will incur drastic and summary punishment at the hands of Allied Military Authorities and the Japanese Government.

XIII. The Japanese Imperial General Headquarters will immediately advise the Supreme Commander for the Allied Powers the earliest date and time at which information called for in Part II, VII and IX (d) can be submitted.

Source: Foreign Ministry of Japan (ed.), *Documents Concerning the Allied Occupation and Control of Japan*, Vol. 1, 1949.

Annex X

Flow of Command



Annex XI

DIRECTIVE No. 3
OFFICE OF THE SUPREME COMMANDER FOR THE ALLIED POWERS

Directive) NO..... 3)

APO 500
22 September, 1945

1. *General.* The Japanese Imperial Government is hereby directed to comply, or to insure the compliance as the case may be, with the requirements of the Supreme Commander for the Allied Powers stated in this directive.

2. *Economic Controls.*

a. You are responsible for initiating and maintaining a firm control over wages and prices of essential commodities.

b. You are responsible for initiating and maintaining a strict rationing program for essential commodities in short supply, to insure that such commodities are equitably distributed.

c. You will report to the Supreme Commander all details of existing economic control machinery and procedures covering the objectives outlined in paragraphs "a" and "b" above within ten days after the receipt of this directive. You will include data on wage schedules and ration allowances of essential commodities in short supply. You will include a statement as to the manner in which such economic control measures are operating and the reasons for inadequacies, if any.

3. *Production.*

a. You will stimulate and encourage the immediate maximum production of all essential consumers' commodities, including industrial, agricultural, and fisheries products, and commodities necessary to the production of such essential consumers' goods. Priority in allocation of materials, fuel, equipment, and labor will be given to the production of commodities necessary to the feeding, clothing, and housing of the population.

b. Where conversion is considered necessary, of plants heretofore engaged in the production of items prohibited by Par. 4 below, to the production of essential consumers' commodities, you will submit individual application for such conversion of each plant concerned.

4. *Prohibited items.* No production will be permitted of the following types of items:

a. Arms, ammunition, or implements of war. Applications will be presented for the use or manufacture of such industrial explosives as may be deemed necessary, accompanied by complete supporting data as to its essentiality and methods by which their distribution and use will be controlled.

b. Parts, components or ingredients especially designed or produced for incorporation into arms, ammunition, or implements of war.

c. Combat naval vessels.

d. All types of aircraft, including those designed for civilian use.

e. Parts, components, and materials especially designed or produced for incorporation into aircraft of any type.

5. You will preserve and maintain in good condition for inspection and such disposition as may be directed by this Headquarters all plants, equipment, patents, and other property, and all books, records, and documents of Japanese Imperial Government or private industrial companies and trade and research associations which have manufactured any of the items listed in paragraph 4 of this directive or any of the following items:

a. Iron and steel.

b. Chemicals.

c. Non-ferrous materials.

d. Aluminium.

e. Magnesium.

f. Synthetic rubber.

g. Synthetic oil.

h. Machine tools.

i. Radio and electrical equipment.

j. Automotive vehicles.

k. Merchant ships.

l. Heavy machinery and important parts thereof.

and of any companies, associations or cartels which contributed to the Japanese war effort or were essential to the Japanese economy.

6. *Inventory and Records Required.* You will as rapidly as possible submit to this Headquarters an inventory of significant plants producing or intending to produce products in the industries listed in paragraphs 4 and 5 of this directive. This inventory will include detailed reports specifying condition and equipment and capacity of plants, and the extent of the stocks of fuel, raw materials, finished goods, and goods in process available.

7. *Imports and Exports.* No imports to, or exports from, Japan of any goods, wares or merchandise will be permitted, except with the prior approval of this Headquarters.

8. a. You will submit a report of all laboratories, research institutes, and similar scientific and technological organizations which will include the following information:

(1) Name.

(2) Location.

(3) Ownership.

(4) Description of facilities.

(5) Number of employees.

(6) Detailed list of all projects by agency that are currently being studied by these agencies and projects studied since 1940.

b. You will direct such agencies to be open for inspection by duly authorized Allied representatives at all times.

c. You will direct such agencies to render a report as of the first day of each month to this Headquarters through your office stating in detail the projects on which their facilities and personnel have been engaged during the preceding month and the results of such work.

d. You will prohibit all research or development work which has as its object effecting mass separation of Uranium 235 from Uranium or effecting mass separation of any other radioactively unstable elements.

9. All reports required in this directive will be submitted typewritten in English, on white paper - size 8 1/2 by 11 inches, in five copies.

R.K. SUTHERLAND
Lieutenant General, United
States Army, Chief of Staff

OFFICIAL:
(Sgd.) Harold Fair
For B.M. FITCH,
Brigadier General, US Army, Adjutant General.

Source: Foreign Ministry of Japan (ed.), *Documents Concerning the Allied Occupation and Control of Japan*, Vol. 1, 1949.

Annex XII

List of Repatriates

Area	1946	'47	'48	'49	'50	'51	'52	'53
1.	5.000	200.774	169.619	87.416	7.547	8	0	798
2.	5.613	168.111	114.156	4.710	0	1	0	0
3.	1.010.837	29.714	4.970	4	0	0	0	0
4.	6.126	212.053	4.914	2.861	0	0	0	0
5.	1.492.397	3.758	4.401	702	151	92	214	26.051
6.	19.050	147	14	11	6	45	45	11
7.	304.469	16.779	1.295	3	2	0	0	2
8.	591.765	1.425	1.150	1.041	264	263	197	107
9.	473.316	4.958	775	255	118	35	32	27
10.	62.389	0	0	0	0	0	0	0
11.	64.396	3.484	996	490	45	4	0	1
12.	0	14.841	637	112	0	2	0	0
13.	31.583	286	123	45	52	31	17	38
14.	130.795	103	4	4	3	28	9	2
15.	132.303	457	116	41	11	30	11	102
16.	623.909	86.379	346	51	141	170	181	34
17.	3.411	1	100	80	8	59	0	0
18.	138.167	487	8	18	12	34	23	32
19.	797	0	0	0	0	0	0	0
	5.096.323	743.757	303.624	97.844	8.360	802	729	27.205

Area	'54	'55	'56	'57	'58	'59	'60	'61	'62	'63	'64
1.	419	164	1.189	0	1	0	1	1	0	0	0
2.	1	0	0	173	526	67	1	0	0	4	14
3.	0	0	0	0	0	0	0	0	0	0	0
4.	0	0	0	0	0	0	0	0	0	0	0
5.	1.118	1.850	1.284	97	2.157	10	41	42	56	59	110
6.	1	6	4	2	1	2	2	0	0	0	0
7.	0	0	35	0	0	0	0	0	0	0	0
8.	50	32	48	18	18	23	25	28	91	49	80
9.	7	4	10	2	2	0	2	1	0	0	0
10.	0	0	0	0	0	0	0	0	0	0	0
11.	0	0	0	0	0	0	0	0	0	0	0
12.	0	0	0	0	1	0	0	0	0	0	0
13.	4	4	2	0	0	43	70	5	0	0	0
14.	5	7	4	0	0	0	3	0	0	0	0
15.	16	22	9	3	1	0	0	0	0	0	0
16.	80	88	118	5	3	1	0	0	0	0	0
17.	0	0	0	0	0	0	0	0	0	0	0
18.	2	5	52	3	0	0	0	0	0	0	0
19.	0	0	0	0	0	0	0	0	0	0	0
	1.703	2.182	2.755	303	2.710	146	145	77	147	112	204

1. USSR; 2. Kuril Islands, Sakhalin; 3. Manchuria; 4. Dalian; 5. China; 6. Hongkong; 7. North Korea; 8. South Korea; 9. Taiwan; 10. Neighboring Islands; 11. Okinawa; 12. Former Dutch Indies; 13. French Indochina; 14. Pacific Islands; 15. Philippines; 16. Southeast Asia; 17. Hawai; 18. Australia; 19. New Zealand

Area	'65	'66	'67	'68	'69	'70	'71	'72	'73	'74	'75
1.	0	0	0	0	2	0	1	0	1	0	1
2.	74	12	7	8	0	3	0	1	2	2	2
3.	0	0	0	0	0	0	0	0	0	0	0
4.	0	0	0	0	0	0	0	0	0	0	0
5.	103	85	77	5	6	96	31	37	61	206	218
6.	0	0	0	0	0	0	0	0	0	0	0
7.	0	0	0	0	0	0	0	0	0	0	0
8.	70	46	37	48	59	143	63	39	52	32	15
9.	0	0	0	0	0	0	0	0	0	0	0
10.	0	0	0	0	0	0	0	0	0	0	0
11.	0	0	0	0	0	0	0	0	0	0	0
12.	0	0	0	0	0	0	0	0	0	0	0
13.	0	0	0	0	0	0	0	0	0	0	0
14.	0	0	0	0	0	0	0	1	0	0	0
15.	0	0	0	0	0	0	0	0	0	1	0
16.	0	0	0	0	0	0	0	0	1	0	0
17.	0	0	0	0	0	0	0	0	0	0	0
18.	0	0	0	0	0	0	0	0	0	0	0
19.	0	0	0	0	0	0	0	0	0	0	0
	247	143	121	61	67	242	95	78	117	241	236

Area	'76	'77	'78	'79	'80	'81	'82	'83	'84	'85	'86	Total
1.	0	0	0	0	0	0	0	0	0	0	0	472.942
2.	3	0	0	0	0	0	0	0	0	0	0	293.491
3.	0	0	0	0	0	0	0	0	0	0	0	1.045.525
4.	0	0	0	0	0	0	0	0	0	0	0	225.954
5.	120	106	90	115	190	161	170	142	140	152	6	1.536.907
6.	0	0	0	0	0	0	0	0	0	0	0	19.347
7.	0	0	0	0	0	0	0	0	0	0	0	322.585
8.	24	11	4	0	0	0	1	0	0	0	0	597.318
9.	0	0	0	0	0	0	0	0	0	0	0	479.544
10.	0	0	0	0	0	0	0	0	0	0	0	62.389
11.	0	0	0	0	0	0	0	0	0	0	0	69.416
12.	0	0	0	0	0	0	0	0	0	0	0	15.593
13.	0	0	0	0	0	0	0	0	0	0	0	32.303
14.	0	0	0	0	0	0	0	0	0	0	0	130.968
15.	0	0	0	0	0	0	0	0	0	0	0	133.123
16.	0	0	0	0	0	0	0	0	0	0	0	711.507
17.	0	0	0	0	0	0	0	0	0	0	0	3.659
18.	0	0	0	0	0	0	0	0	0	0	0	138.843
19.	0	0	0	0	0	0	0	0	0	0	0	797
	147	117	94	115	190	161	171	142	140	152	6	6.292.211

Source: Data by the Ministry of Health and Welfare, War Victims' Relief Bureau.

(No repatriates included who did not take formal procedure.)

Annex XIII

The Common Roots of the Armament Limitations in the Peace Treaties with Italy, Hungary, Rumania, Bulgaria, Finland and in the Austrian State Treaty

The first proposals by the Allies for armament limitations on Germany's allies in World War II were put forth on January 19, 1944. They provided the demobilisation of the existing armed forces as well as limitations on the production of the arms industries of the states concerned, and in addition, the corresponding verification and control mechanisms. They did not, however, include the quantitative or qualitative armament limitations later provided by the treaties.[1]

Immediately after the end of the war in Europe, negotiations for a peace treaty with Italy began.[2] U.S. proposals for the clause referring to armament limitations read: "partial disarmament with permission of limited forces".[3] Thus, the first U.S. proposals for a peace treaty with Italy included the following military provisions:

- A minimisation of expenditures for military purposes because of the prohibition of the use of force in the UN Charter and economic necessities to funnel as little money as possible away from the reconstruction of devastated Europe; to be exercised under an arms control regime of the United Nations (Article 13 of the draft).
- Until the creation of a generalised arms control system of the United Nations, the Italian armed forces should restrain their size, deployment, training, arms, and equipment in accordance with a predominantly defensive role. Any future defence industry in Italy should also conform to this purpose (Art. 14 of the draft).
- The future activities of the land forces are to be oriented to the following missions:

  a) the maintenance of internal security;
  b) the defence of the Italian border against local aggression;
  c) the maintenance of internal order and security in the Italian colonies and trust territories; and
  d) the support of the United Nations (Art. 15, Item 1).

Similar missions were foreseen for the Italian Navy (Art. 15, Item 2) and for the Italian Air Force (Art. 15, Item 3).[4] The following foreign ministers's conferences dealt with the draft peace treaties of Italy, Bulgaria, Rumania, Hungary and Finland. During the London Conference (September 12 1945), the British government[5] presented the draft for a peace

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[1] *Foreign Relations of the United States*, U.S. GPO, Volume V/1944, p. 48 (following references as *FRUS* and year).
[2] See the contribution of Leopoldo Nuti/Ilaria Poggiolini on Italy in this book (Chapter 2).
[3] *FRUS*, IV/1945, p. 1.000.
[4] *Ibid.*
[5] For details see Nuti/Poggiolini in Chapter 2 of this publication.

treaty with Italy[6] which set an important precedent for the armament limitations in the other peace treaties as well as in the Austrian State Treaty.

The draft treaty for Italy included in Part IV[7] naval, military and air clauses. They included basic limitation provisions (section I), limitations to be imposed on the Navy (section II), on the Army (section III) and on the Air force (section IV), limitations on war materiel (section V), disposal of war materiel to the Allied Powers (section VI), prohibition on employment or training of (German or Japanese) technicians (section VII), setting up of an Allied Inspectorate (section VII) and provisions of forces or facilities required by World Organisation i.e. support in military actions of the United Nations (section IX).

More specific armament limitations referring to certain categories of weapons by quantity or quality were contained in the first articles. Section I, Article 32 reads: "No construction or experiments for long range weapons, guided missiles or similar installations, of for sea mines, torpedoes, submarines or other submersible craft and specialised types of assault craft to be undertaken." The provisions regarding the branches (Navy, Army and Air Force), on the other hand, mainly refered to quantitative armament limitations, whereas article 37 expressed a prohibition of aircraft carriers as well.

According to a decision by the Council of Allied Foreign Ministers (December 1945), a peace conference was to be convened in Paris. It took place from July 29, to October 15, 1946 and discussed the "draft peace treaties". Within the conference, a Military Commission with Poland as chairman was established.[8] On October 5, 1946, the Military Commission presented its report on the Draft Treaty with Italy. As one of the "Amendments of Substance", it also widened the scope for armament limitations, including "atomic weapons". The article now reads: "Italy shall not possess, construct or experiment with (i) any atomic weapon, (ii) any self-propelled or guided missiles or apparatus for their discharge (other than torpedoes or torpedo launching gear inherent to naval vessels permitted by this Treaty, (iii) any guns with a range of over 30 kilometres, (iv) sea-mines or torpedoes of non-contact types actuated by influence mechanisms, (v) any torpedoes capable of being manned".[9]

Furthermore, for negotiating purposes, the Allies agreed to the same military provisions for the other peace treaties as in the text of the Italian treaty in their New York meeting on November 11, 1946.[10] The military clauses were thus identical among the draft treaties with Hungary, Bulgaria, Rumania, and Finland, concerning numerical limitations on land, naval and air forces. Other obligations included the prohibition of the training of personnel not part of the national forces, qualitative armaments limitations, restrictions on facilities for the manufacture of war material, regulations for war material of Allied origin or of German origin or design as well as for excess war material, the obligation to cooperate with the "United Nations" (= the Allies) to prevent German rearmament, a prohibition to acquire or manufacture civil aircraft of German or Japanese design, etc.[11]

The final texts were agreed upon at the meeting of the Foreign Ministers' Council in New York, November 4 - December 12, 1946, and signed with Italy, Bulgaria, Rumania,

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[6] *FRUS*, II/1945, p. 135.

[7] *Ibid.*, pp. 139-142.

[8] See Amélia C. Leiss and Raymond Dennett (eds. for the World Peace Foundation), *European Peace Treaties after World War II*; Boston, 1954, p. 14.

[9] *FRUS*, II/1946, p. 416.

[10] *FRUS*, II/1946, p. 1.803.

[11] *FRUS*, IV/1946, pp. 66-112.

Hungary and Finland on February 10, 1947. Negotiations for a State Treaty with Austria led to a draft text on April, 27, 1947. It, too, came close to the other treaties but differed in several elements. Within the provisions on qualitative armaments, the major difference is an additional prohibition of "other major weapons adoptable to mass destruction and designed as such by the appropriate organ of the United Nations";[12] then, it contains a differentiation between the term "self-propelled or guided missiles" and torpedoes. Finally, it contains a ban on chemical and biological weapons. The State Treaty text furthermore includes, as does the final version of the Italian peace treaty text, a 30 km limit to the effective range of guns.

Before the treaty could be finalised, however, the outbreak of the Cold War stalled further negotiations, and it was only after the first thaw in East-West relations in the mid-fifties that the State Treaty with Austria could be concluded on May 15, 1955.[13]

A comparison of the final texts shows that the military-political clauses in the broad sense[14] are identical in the texts of all treaties. This is of special importance because they all want to prevent the rearmament of Germany, even by circumvention via third parties. This has been stated with identical wording in the articles concerning the obligations of the treaty signatories to cooperate with the Allies in the prevention of such rearmament of Germany.[15] The articles concerning war materiel of German origin,[16] as well as the prohibition relating to civilian aircraft of German (or Japanese) design,[17] and the article about the prohibition of the military training of personnel that does not belong to the national armed forces[18] are to be seen in a similar spirit.

On the other hand, the military-technical clauses of the treaties contain some differences.[19] The Bulgarian, Rumanian, Hungarian and Finnish treaties are - in parts - closer to the original British proposal than the final version of the Italian treaty. For instance, the Italian treaty includes the limitation on naval armament (submarines, torpedo boats and "specialised types of assault crafts" together with the prohibition of aircraft carriers under the heading "Naval Armament".[20] In contrast, the provisions of the other treaties contain these clauses within the general armament limitations, according to the original draft. The prohibition of "long-range weapons" of the British draft had, inter alia, left its mark on the Italian treaty, where the artillery range limits were set at 30 km. This corresponds to an earlier definition of the term "long-range weapon" as "of a range over 20 miles".[21] The same limitation is missing in the other peace treaties but reappears in the Austrian State Treaty. On

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[12] The inclusion of "other means of mass destruction" was initiated by the Soviet Union; see Chapter 7 in this publication by Heinz Vetschera.

[13] See Chapter 7 of this publication.

[14] That is, such military provisions that in no way include quantitative or qualitative limitations on forces or armament.

[15] Italy: Art. 68; Bulgaria: Art. 16; Romania: Art. 17; Hungary: Art. 18; Finland: Art. 20; Austria: Art. 27 (1947)/15 (1955).

[16] Italy: Art. 52; Bulgaria: Art. 15 (2); Romania: Art. 16 (2); Hungary: Art. 17 (2); Finland: Art. 19 (2); Austria: Art. 26 (4) (1974)/Art. 14 (4) (1955).

[17] Italy: Art. 70; Bulgaria: Art. 17; Romania: Art. 18; Hungary: Art. 19; Finland: Art. 21; Austria: Art. 28 (1947)/16 (1955).

[18] Italy: Art. 60 (4) regarding the Navy, Art. 63 regarding the Army, Art. 65 (2) regarding the Air Force; Bulgaria: Art. 11 for all services; Romania: Art. 13 for all armed services; Hungary: Art. 14 for all armed services; Finland: Art. 15 for all armed services. In the latter treaties reference is also made to a definition of military training in Annex II. The first draft of the Austrian State Treatyy also included similar prohibitions (Art. 19 and Annex I of the draft); see G. Stourzh, *Kleine Geschichte des österreichischen Staatsvertrages*, Styria, Graz, 1975, p. 245.

[19] See below.

[20] Section III of the Italian Treaty, Article 59.

[21] *FRUS*, 1945, vol. II, p. 140.

the other hand, the final text of the Austrian State Treaty differs from the peace treaties not only in the elements already mentioned with its draft text, but also by lacking the numerical limits on forces and armaments, the prohibition of the training of personnel not included in the national forces, or the prohibition of excess war material.[22]

[22] These provisions were eliminated at the final ambassadors' meetings on May 4 and 5, 1955, before signing the State Treaty.

Annex XIV

Text Comparison of the 1947 Peace Treaties and the 1955 States Treaty

British draft
(for the military clauses in the Italian Treaty that served as reference to the other treaties)

No constructions or experiments for long range weapons, guided missiles, or similar installations, or for sea mines, torpedoes, submarines or other submersible craft and specialised types of assault craft to be undertaken (Art. 32).
No aircraft carriers to be retained or constructed (Art. 37).

Final Version of Treaties with:

Italy

Italy shall not possess, construct or experiment with
(i) any atomic weapon,
(ii) any self-propelled or guided missiles or apparatus connected with their discharge (other than torpedoes and torpedo-launching gear comprising the normal armament of naval vessels permitted by the present Treaty),
(iii) any guns with a range of over 30 kilometres,
(iv) sea mines or torpedoes of non-contact types actuated by influence mechanisms,
(v) any torpedoes capable of being manned (Art. 51).

No aircraft carrier, submarine or other submersible craft, motor torpedo boat or specialised types of assault craft shall be constructed, acquired, employed or experiment with by Italy (Art. 59).

Bulgaria (Art. 13), ***Rumania*** (Art. 14), ***Hungary*** (Art. 15), ***Finland*** (Art. 17)

... shall not possess, construct or experiment with any atomic weapons, any self-propelled or guided missiles or apparatus connected with their discharge (other than torpedoes and torpedo launching gear comprising the normal armament of naval vessels permitted by the present Treaty), sea mines or torpedoes of non-contact types actuated by influence mechanisms, torpedoes capable of being manned, submarines or other submersible craft, motor torpedo boats, or specialised types of assault craft.

Austria

... shall not possess, construct or experiment with
a) any atomic weapon,
b) any other major weapon, adaptable now or in the future to mass destruction and defined as such by the appropriate organ of the United Nations,
c) any self-propelled or guided missiles or torpedoes, or apparatus connected with their

discharge or control,
d) sea mines,
e) torpedoes capable of being manned,
f) submarines or other submersible crafts,
g) motor torpedo boats,
h) specialised types of assault craft,
i) guns with a range of more than 30 kilometres,
j) asphyxiating, vesicant or poisonous materials or biological substances in quantities greater than, or of types other than, are required for legitimate civilian purposes, or any apparatus designed to produce, project or spread such materials or substances for war purposes (Art. 13 of the State Treaty of Vienna, Para. 1).

Text Comparison adapted from Heinz Vetschera, *Die Rstungsbeschrnkungen des sterreichischen Staatsvertrag*, Sozialwissenschaftliche Schrtiftenreihe des Institutes fr Politische Grundlagenforschung, Heft 6, Wien, 1985, pp. 32-33.

Annex XV

United Nations Security Council Resolution 687
3 April 1991

The Security Council,

Recalling its resolutions 660 (1990), 661 (1990), 662 (1990), 664 (1990), 665 (1990), 666 (1990), 667 (1990), 669 (1990), 670 (1990), 674 (1990), 677 (1990), 678 (1990) and 686 (1991),

Welcoming the restoration to Kuwait of its sovereignty, independence, and territorial integrity and the return of its legitimate government,

Affirming the commitment of all Member States to the sovereignty, territorial integrity and political independence of Kuwait and Iraq, and noting the intention expressed by the Member States cooperating with Kuwait under paragraph 2 of resolution 678 (1990) to bring their military presence in Iraq to an end as soon as possible consistent with paragraph 8 of resolution 686 (1991),

Reaffirming the need to be assured of Iraq's peaceful intentions in light of its unlawful invasion and occupation of Kuwait,

Taking note of the letter sent by the Foreign Minister of Iraq on 27 February 1991 (S/22275) and those sent pursuant to resolution 686 (1991) (S/22273, S/22276, S/22320, S/22321 and S/22330),

Noting that Iraq and Kuwait, as independent sovereign States, signed at Baghdad on 4 October 1963 "Agreed Minutes Regarding the Restoration of Friendly Relations, Recognition and Related Matters", thereby recognizing formally the boundary between Iraq and Kuwait and the allocation of islands, which were registered with the United Nations in accordance with Article 102 of the Charter and in which Iraq recognized the independence and complete sovereignty of the State of Kuwait within its borders as specified and accepted in the letter of the Prime Minister of Iraq dated 21 July 1932, and as accepted by the Ruler of Kuwait in his letter dated 10 August 1932,

Conscious of the need for demarcation of the said boundary,

Conscious also of the statements by Iraq threatening to use weapons in violation of its obligations under the Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925, and of its prior use of chemical weapons and affirming that grave consequences would follow any further use by Iraq of such weapons,

Recalling that Iraq has subscribed to the Declaration adopted by all States participating in the Conference of States Parties to the 1925 Geneva Protocol and Other Interested States, held

at Paris from 7 to 11 January 1989, establishing the objective of universal elimination of chemical and biological weapons,

Recalling further that Iraq has signed the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, of 10 April 1972,

Noting the importance of Iraq ratifying this Convention,

Noting moreover the importance of all States adhering to this Convention and encouraging its forthcoming Review Conference to reinforce the authority, efficiency and universal scope of the Convention,

Stressing the importance of an early conclusion by the Conference on Disarmament of its work on a Convention on the Universal Prohibition of Chemical Weapons and of universal adherence thereto,

Aware of the use by Iraq of ballistic missiles in unprovoked attacks and therefore of the need to take specific measures in regard to such missiles located in Iraq,

Concerned by the reports in the hands of Member States that Iraq has attempted to acquire materials for a nuclear-weapons programme contrary to its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968,

Recalling the objective of the establishment of a nuclear-weapon-free zone in the region of the Middle East,

Conscious of the threat which all weapons of mass destruction pose to peace and security in the area and of the need to work towards the establishment in the Middle East of a zone free of such weapons,

Conscious also of the objective of achieving balanced and comprehensive control of armaments in the region,

Conscious further of the importance of achieving the objectives noted above using all available means, including a dialogue among the States of the region,

Noting that resolution 686 (1991) marked the lifting of the measures imposed by resolution 661 (1990) in so far as they applied to Kuwait,

Noting that despite the progress being made in fulfilling the obligations of resolution 686 (1991), many Kuwaiti and third country nationals are still not accounted for and property remains unreturned,

Recalling the International Convention against the Taking of Hostages, opened for signature at New York on 18 December 1979, which categorizes all acts of taking hostages as manifestations of international terrorism,

Deploring threats made by Iraq during the recent conflict to make use of terrorism against targets outside Iraq and the taking of hostages by Iraq,

Taking note with grave concern of the reports of the Secretary-General of 20 March 1991 (S/22366) and 28 March 1991 (S/22409), and conscious of the necessity to meet urgently the humanitarian needs in Kuwait and Iraq,

Bearing in mind its objective of restoring international peace and security in the area as set out in recent Council resolutions,

Conscious of the need to take the following measures acting under Chapter VII of the Charter,

1. ***Affirms*** all thirteen resolutions noted above, except as expressly changed below to achieve the goals of this resolution, including a formal cease-fire;

A

2. ***Demands*** that Iraq and Kuwait respect the inviolability of the international boundary and the allocation of islands set out in the "Agreed Minutes Between the State of Kuwait and the Republic of Iraq Regarding the Restoration of Friendly Relations, Recognition and Related Matters", signed by them in the exercise of their sovereignty at Baghdad on 4 October 1963 and registered with the United Nations and published by the United Nations in document 7063, United Nations Series, 1964;

3. ***Calls on*** the Secretary-General to lend his assistance to make arrangements with Iraq and Kuwait to demarcate the boundary between Iraq and Kuwait, drawing on appropriate material including the map transmitted by Security Council document S/22412 and to report back to the Security Council within one month;

4. ***Decides*** to guarantee the inviolability of the above-mentioned international boundary and to take as appropriate all necessary measures to that end in accordance with the Charter;

B

5. ***Requests*** the Secretary-General, after consulting with Iraq and Kuwait, to submit within three days to the Security Council for its approval a plan for the immediate deployment of a United Nations observer unit to monitor the Khor Abdullah and a demilitarized zone, which is hereby established, extending 10 kilometres into Iraq and 5 kilometres into Kuwait from the boundary referred to in the "Agreed Minutes Between the State of Kuwait and the Republic of Iraq Regarding the Restoration of Friendly Relation, Recognition and Related Matters" of 4 October 1963; to deter violations of the boundary through its presence in and surveillance of the demilitarized zone; to observe any hostile or potentially hostile action mounted from the territory of one State to the other; and for the Secretary-General to report regularly to the Council on the operations of the unit, and immediately if there are serious violations of the zone or potential threats to peace;

6. ***Notes*** that as soon as the Secretary-General notifies the Council of the completion of the deployment of the United Nations observer unit, the conditions will be established for the Member States cooperating with Kuwait in accordance with resolution 678 (1990) to bring their military presence in Iraq to an end consistent with resolution 686 (1991);

C

7. ***Invites*** Iraq to reaffirm unconditionally its obligations under the Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925, and to ratify the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, of 10 April 1972;

8. ***Decides*** that Iraq shall unconditionally accept the destruction, removal, or rendering harmless, under international supervision, of:
a) all chemical and biological weapons and all stocks of agents and all related subsystems and components and all research, development, support and manufacturing facilities;
b) all ballistic missiles with a range greater than 150 kilometres and related major parts, and repair and production facilities;

9. ***Decides***, for the implementation of paragraph 8 above, the following:
a) Iraq shall submit to the Secretary-General, within fifteen days of the adoption of this resolution, a declaration of the locations, amounts and types of all items specified in paragraph 8 and agree to urgent, on-site inspection as specified below;
b) the Secretary-General, in consultation with the appropriate Governments and, where appropriate, with the Director-General of the World Health Organization (WHO), within 45 days of the passage of this resolution, shall develop, and submit to the Council for approval, a plan calling for the completion of the following acts within 45 days of such approval:

i) the forming of a Special Commission, which shall carry out immediate on-site inspection of Iraq's biological, chemical and missile capabilities, based on Iraq's declarations and the designation of any additional locations by the Special Commission itself;

ii) the yielding by Iraq of possession to the Special Commission for destruction, removal or rendering harmless, taking into account the requirements of public safety, of all items specified under paragraph 8 (*a*) above including items at the additional locations designated by the Special Commission under paragraph 9 (*b*) (*i*) above and the destruction by Iraq, under supervision of the Special Commission, of all its missile capabilities including launchers as specified under paragraph 8 (*b*) above;

iii) the provision by the Special Commission of the assistance and cooperation to the Director-General of the International Atomic Energy Agency (IAEA) required in paragraphs 12 and 13 below;

10. ***Decides*** that Iraq shall unconditionally undertake not to use, develop, construct or acquire any of the items specified in paragraphs 8 and 9 above and requests the Secretary-General, in consultation with the Special Commission, to develop a plan for the future ongoing monitoring and verification of Iraq's compliance with this paragraph, to be submitted to the Council for approval within 120 days of the passage of this resolution;

11. ***Invites*** Iraq to reaffirm unconditionally its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons, of 1 July 1968;

12. ***Decides*** that Iraq shall unconditionally agree not to acquire or develop nuclear weapons or nuclear-weapons-usable material or any subsystems or components or any research, development, support or manufacturing facilities related to the above; to submit to the Secretary-General and the Director-General of the International Atomic Energy Agency (IAEA) within 15 days of the adoption of this resolution a declaration of the locations, amounts, and types of all items specified above; to place all of its nuclear-weapons-usable materials under the exclusive control, for custody and removal, of the IAEA, with the assistance and cooperation of the Special Commission as provided for in the plan of the Secretary-General discussed in paragraph 9 (*b*) above; to accept, in accordance with the arrangements provided for in paragraph 13 below, urgent on-site inspection and the destruction, removal, or rendering harmless as appropriate of all items specified above; and to accept the plan discussed in paragraph 13 below for the future ongoing monitoring and verification of its compliance with these undertakings;

13. ***Requests*** the Director-General of the International Atomic Energy Agency (IAEA) through the Secretary-General, with the assistance and cooperation of the Special Commission as provided for in the plan of the Secretary-General in paragraph 9 (*b*) above, to carry out immediate on-site inspection of Iraq's nuclear capabilities based on Iraq's declarations and the designation of any additional locations by the Special Commission; to develop a plan for submission to the Security Council within 45 days calling for the destruction, removal, or rendering harmless as appropriate of all items listed in paragraph 12 above; to carry out the plan within 45 days following approval by the Security Council; and to develop a plan, taking into account the rights and obligations of Iraq under the Treaty on the Non-Proliferation of Nuclear Weapons, of 1 July 1968, for the future ongoing monitoring and verification of Iraq's compliance with paragraph 12 above, including an inventory of all nuclear material in Iraq subject to the Agency's verification and inspections to confirm that IAEA safeguards cover all relevant nuclear activities in Iraq, to be submitted to the Council for approval within 120 days of the passage of this resolution;

14. ***Takes note*** that the actions to be taken by Iraq in paragraphs 8, 9, 10, 11, 12 and 13 of this resolution represent steps towards the goal of establishing in the Middle East a zone free from weapons of mass destruction and all missiles for their delivery and the objective of a global ban on chemical weapons;

D

15. ***Requests*** the Secretary-General to report to the Security Council on the steps taken to facilitate the return of all Kuwait property seized by Iraq, including a list of any property which Kuwait claims has not been returned or which has not been returned intact;

E

16. ***Reaffirms*** that Iraq, without prejudice to the debts and obligations of Iraq arising prior to 2 August 1990, which will be addressed through the normal mechanisms, is liable under

international law for any direct loss, damage, including environmental damage and the depletion of natural resources, or injury to foreign Governments, nationals and corporations, as a result of Iraq's unlawful invasion and occupation of Kuwait;

17. ***Decides*** that all Iraqi statements made since 2 August 1990, repudiating its foreign debt, are null and void, and demands that Iraq scrupulously adhere to all of its obligations concerning servicing and repayment of its foreign debt;

18. ***Decides*** to create a Fund to pay compensation for claims that fall within paragraph 16 above and to establish a Commission that will administer the Fund;

19. ***Directs*** the Secretary-General to develop and present to the Council for decision, no later than 30 days following the adoption of this resolution, recommendations for the Fund to meet the requirement for the payment of claims established in accordance with paragraph 18 above and for a programme to implement the decisions in paragraphs 16, 17, and 18 above, including: administration of the Fund; mechanisms for determining the appropriate level of Iraq's contribution to the Fund based on a percentage of the value of the exports of petroleum and petroleum products from Iraq not to exceed a figure to be suggested to the Council by the Secretary-General, taking into account the requirements of the people of Iraq, Iraq's payment capacity as assessed in conjunction with the international financial institutions taking into consideration external debt service, and the needs of the Iraqi economy; arrangements for ensuring that payments are made to the Fund; the process by which funds will be allocated and claims paid; appropriate procedures for evaluating losses, listing claims and verifying their validity and resolving disputed claims in respect of Iraq's liability as specified in paragraph 16 above; and the composition of the Commission designated above;

F

20. ***Decides***, effective immediately, that the prohibitions against the sale or supply to Iraq of commodities or products other than medicine and health supplies, and prohibitions against financial transactions related thereto, contained in resolution 661 (1990) shall not apply to foodstuffs notified to the Committee established by resolution 661 (1990) or, with the approval of that Committee, under the simplified and accelerated "no-objection" procedure, to materials and supplies for essential civilian needs as identified in the report of the Secretary-General dated 20 March 1991 (S/22366), and in any further findings of humanitarian need by the Committee;

21. ***Decides*** that the Council shall review the provisions of paragraph 20 above every sixty days in light of the policies and practices of the Government of Iraq, including the implementation of all relevant resolutions of the Security Council, for the purpose of determining whether to reduce or lift the prohibitions referred to therein;

22. ***Decides*** that upon the approval by the Council of the programme called for in paragraph 19 above and upon Council agreement that Iraq has completed all actions contemplated in paragraph 8, 9, 10, 11, 12 and 13 above, the prohibitions against the import of commodities and products originating in Iraq and the prohibitions against financial transactions related thereto contained in resolution 661 (1990) shall have no further force or effect;

23. ***Decides*** that, pending action by the Council under paragraph 22 above, the Committee established under resolution 661 (1990) shall be empowered to approve, when required to assure adequate financial resources on the part of Iraq to carry out the activities under paragraph 20 above, exceptions to the prohibition against the import of commodities and products originating in Iraq;

24. ***Decides*** that, in accordance with resolution 661 (1990) and subsequent related resolutions and until a further decision is taken by the Council, all States shall continue to prevent the sale or supply, or promotion or facilitation of such sale or supply, to Iraq by their nationals, or from their territories or using their flag vessels or aircraft, of:
a) arms and related ***matériel*** of all types, specifically including the sale or transfer through other means of all forms of conventional military equipment, including for paramilitary forces, and spare parts and components and their means of production, for such equipment;
b) items specified and defined in paragraph 8 and paragraph 12 above not otherwise covered above;
c) technology under licensing or other transfer arrangements used in the production, utilization or stockpiling of items specified in subparagraphs (*a*) and (*b*) above;
d) personnel or materials for training or technical support services relating to the design, development, manufacture, use, maintenance or support of items specified in subparagraphs (*a*) and (*b*) above;

25. ***Calls upon*** all States and international organizations to act strictly in accordance with paragraph 24 above, notwithstanding the existence of any contracts, agreements, licences, or any other arrangements;

26. ***Requests*** the Secretary-General, in consultation with appropriate Governments, to develop within 60 days, for approval of the Council, guidelines to facilitate full international implementation of paragraphs 24 and 25 above and paragraph 27 below, and to make them available to all States and to establish a procedure for updating these guidelines periodically;

27. ***Calls upon*** all States to maintain such national controls and procedures and to take such other actions consistent with the guidelines to be established by the Security Council under paragraph 26 above as may be necessary to ensure compliance with the terms of paragraph 24 above, and calls upon international organizations to take all appropriate steps to assist in ensuring such full compliance;

28. ***Agrees*** to review its decisions in paragraphs 22, 23, 24, and 25 above, except for the items specified and defined in paragraphs 8 and 12 above, on a regular basis and in any case 120 days following passage of this resolution, taking into account Iraq's compliance with this resolution and general progress towards the control of armaments in the region;

29. ***Decides*** that all States, including Iraq, shall take the necessary measures to ensure that no claim shall lie at the instance of the Government of Iraq, or of any person or body in Iraq, or of any person claiming through or for the benefit of any such person or body, in connection with any contract or other transaction where its performance was affected by reason of the measures taken by the Security Council in resolution 661 (1990) and related resolutions;

G

30. ***Decides*** that, in furtherance of its commitment to facilitate the repatriation of all Kuwait and third country nationals, Iraq shall extend all necessary cooperation to the International Committee of the Red Cross, providing lists of such persons, facilitating the access of the International Committee of the Red Cross to all such persons wherever located or detained and facilitating the search by the International Committee of the Red Cross for those Kuwaiti and third country nationals still unaccounted for;

31. ***Invites*** the International Committee of the Red Cross to keep the Secretary-General apprised as appropriate of all activities undertaken in connection with facilitating the repatriation or return of all Kuwaiti and third country nationals or their remains present in Iraq on or after 2 August 1990;

32. ***Requires*** Iraq to inform the Council that it will not commit or support any act of international terrorism or allow any organization directed towards commission of such acts to operate within its territory and to condemn unequivocally and renounce all acts, methods, and practices of terrorism;

33. ***Declares*** that, upon official notification by Iraq to the Secretary-General and to the Security Council of its acceptance of the provisions above, a formal cease-fire is effective between Iraq and Kuwait and the Member States cooperating with Kuwait in accordance with resolution 678 (1990);

34. ***Decides*** to remain seized of the matter and to take such further steps as may be required for the implementation of this resolution and to secure peace and security in the area.

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