

Note from the United States to the Soviet Union (17 July 1961)

Caption: On 17 July 1961, the United States forwards to Andrei Gromyko, Soviet Foreign Minister, an official note protesting against Moscow's proposal to put an end to the four-power agreements governing the status of the City of Berlin.

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Note From the United States to the Soviet Union on the Questions of Germany and Berlin, July 17, 1961

The United States Government has given careful consideration to the Soviet Government's aide-mémoire received on June 4, 1961, in Vienna. It has consulted with its British and French Allies and has found itself in full agreement with them. It has also consulted the Government of the Federal Republic of Germany, and the other member Governments of the North Atlantic Treaty Organization.

The United States Government fully concurs with the Soviet Government that a peace settlement is long overdue. It is clear from the public record of efforts on the part of the Western Powers to reach agreement with the Soviet Union on the terms of such a peace settlement that it is the Soviet Union which has blocked all progress. The United States first suggested in 1946 that a special commission be appointed to draft a German peace treaty. It has continued its efforts throughout all the intervening years but without avail because of Soviet efforts to obtain special advantages for itself and the Soviet bloc in any such settlement at the expense of a lasting peace.

The United States Government would like to be able to believe the Soviet Government's statement that it sincerely desires to remove the sources of tension between the United States and the Soviet Union and to proceed to constructive friendly cooperation. This aim is close to the hearts of the American people and their Government. It found its expression in wartime cooperation, and the United States was deeply disappointed when Soviet postwar actions disrupted the conditions for its continuation. The conclusion of a German treaty in peace and freedom and based on the freely expressed will of the German people would, indeed, allow the U.S.S.R. and the U.S. to come much closer to the attainment of this goal.

With regard to Berlin, the United States is not insisting upon the maintenance of its legal rights because of any desire merely to perpetuate its presence there. It is insisting on, and will defend, its legal rights against attempts at unilateral abrogation because the freedom of the people of West Berlin depends upon the maintenance of those rights. The support and approval of the people of West Berlin for the system under which they live has been made amply clear over the years. Their overwhelming support for their government in free elections is a dramatic example of this. That the United States is not wedded to one particular arrangement for Berlin is demonstrated by the all-Berlin solution which was proposed at Geneva in 1959. It has accepted the possibility of practical arrangements intended to improve the present situation in Berlin until such time as an over-all solution of the German problem can be achieved. It is sorry to note that all the proposals it has made to that end have been rejected by the Government of the U.S.S.R. However, the United States also supports the clearly expressed wish of the West Berliners that no change be made in the status of their city which would expose them, at once or gradually over a longer time, to the domination of the regime which presently controls the surrounding areas.

The United States Government continues to believe that there will be no real solution of the German problem, nor any real tranquility in Central Europe, until the German people are reunified in peace and freedom on the basis of the universally recognized principle of self-determination. It is because of this conviction that the United States Government, with its Allies, has repeatedly proposed solutions for the German problem based on these principles — unfortunately without evoking a positive response from the Soviet Government.

Thus, they proposed to the Soviet Government on May 14, 1959 the Western Peace Plan, which was acclaimed throughout the world as a constructive offer. The detailed proposals in the Peace Plan were intended as a practical step-by-step approach to the problem of a Central European settlement based on the principle of self-determination, to which the Soviet Government professes to adhere, but which is conspicuous by its absence in Soviet proposals.

The Soviet aide-mémoire argues that the time has already passed when the situation in Germany could be left unchanged. The United States Government is persuaded that a change for the better is to be desired. But at the same time it is certain that world opinion has noted that in the decade between the end of the Soviet blockade of Berlin and the renewed threat to Berlin in the Soviet note of November 27, 1958 the German

problem did not disturb world peace. And just as the world could not fail to note who was responsible for disturbing the peace on those two occasions, it will surely condemn any attempt by any one of the Four Powers to change the existing situation in West Berlin against the will of the other Three and against the overwhelming desire of the vast majority of the people of Berlin and Germany, who are most directly concerned.

To justify the action it wishes to take, the Government of the U.S.S.R. alleges that without a peace treaty there is danger of conflagration in Europe. The U.S. Government does not consider that this argument has any merit. Minor incidents which occur from time to time in the present situation are settled through exercise of those quadripartite responsibilities which, in themselves, constitute the most effective protection against any local aggravation of the situation growing into a real threat to the peace.

Contrary to the unfounded assertion in the Soviet aide-mémoire, the Western Powers vigorously carried out the programs to eradicate Nazi militarism, to eliminate vestiges of the Third Reich, to prevent the rebirth of aggressive forces, and to chart a course by which Germany could recover its respect and play a constructive role in international affairs. The Federal Republic of Germany is the proof of the successful achievement of these aims by the West.

The Federal Republic's foreign and military policies accept significant restraints. It has undertaken not to manufacture atomic, chemical, and biological weapons, and has accepted international control to insure that this undertaking is honored. All of the Federal Republic's combat forces are completely integrated into NATO, which has only defensive — not aggressive — aims. The Federal Republic does not seek, or intend to develop, an independent nuclear capability or the transfer of nuclear weapons to its national jurisdiction. It looks to its legitimate defense requirements entirely within the NATO framework. In addition, the Federal Government has publicly stated that the Federal Republic does not contemplate the use of force to achieve reunification or to alter existing boundaries. It has also consistently taken significant steps to integrate itself peacefully and firmly into the Western European community — steps which would never be taken by a government bent on a militaristic course.

After the end of World War II, the United States and its Western Allies demobilized their military forces in the expectation of a peaceful world order. However, postwar Soviet policies compelled the organization of the military defense of the North Atlantic Treaty area. Without the armed threat to Western Europe, the purely defensive Alliance to which the United States is fully committed and in which the Federal Republic participates might well never have developed. The pursuit by the U.S.S.R. of its unilateral objectives in Eastern Europe convinced the present members of NATO that Soviet power would be extended into any area westward which did not have the ability to defend itself. Should the U.S.S.R. make unilateral moves in its Germany policy, contrary to binding international agreements, the NATO countries could only interpret such moves as a purposeful threat to their national interests.

The Soviet Government, in its aide-mémoire, is presenting the Western Powers with a demand that they accept its solution of the German problem. Despite the protestations of the Soviet Government that it does not intend to harm the interests of the United States or other Western Powers in Europe, it remains the firm conviction of the Western Powers that the end result of the Soviet proposals would harm not only their interests, but also those of the German people, and — since they endanger the peace — those of the entire world.

The counterpart of the Soviet position is that unless the Western Powers accept its German solution, the Soviet Government will try to obtain what it wants by unilateral action.

The Soviet Government thus threatens to violate its solemn international obligations, to determine unilaterally the fate of millions of Germans without their consent, and to use force against its World War II Allies if they do not voluntarily surrender their rights and vital positions. The Soviet Government must understand that such a course of action is not only unacceptable, but is a more serious menace to world peace, for which it bears full responsibility before all mankind.

At the end of World War II, the victorious Powers entered into a number of agreements to settle the German problem, based on the principle that questions concerning Germany as a whole were a matter for joint action by the victorious Powers. A peace settlement with Germany is foremost among those questions. The Potsdam Agreement of 1945, for instance, refers to “the preparation of a peace settlement for Germany to be accepted by the government of Germany when a government adequate for the purpose is established.”

Under international law, the Soviet Government cannot ignore these agreements in order to conclude unilateral arrangements with a part of Germany; nor would such action invalidate the rights of the United States Government and the other governments responsible for the settlement of the German question, since these rights derive absolutely from the unconditional surrender of Nazi Germany, and were not granted by, or negotiated with, the Soviet Union. This has repeatedly been acknowledged by the Soviet Government, as recently as at the Vienna meetings and in Chairman Khrushchev’s address of June 15, 1961. For the same reasons, the United States Government does not admit that its rights and obligations toward Germany as a whole can be affected by unilateral negotiations of peace settlements with a part of Germany.

The obligation to maintain the unity of Germany was affirmed by the victorious Powers from the beginning. It was acknowledged by the Soviet Union in 1955, at a Conference attended by Chairman Khrushchev, in the Geneva directive of the Four Heads of Government, which says:

“The Heads of Government [of France, the United Kingdom, the Soviet Union, and the United States], recognizing their common responsibility for the settlement of the German question and the re-unification of Germany, have agreed that the settlement of the German question and the re-unification of Germany by means of free elections shall be carried out in conformity with the national interests of the German people. ...”

What the Soviet Union proposes, unless the Three Powers formally abandon their efforts to reunify Germany, is to determine by itself the fate of Germany through an agreement with the authorities of the so-called “German Democratic Republic,” which is not freely chosen, but has been created by the Soviet Union as an instrument of Soviet foreign policy.

By its signature of the United Nations Charter and in numerous statements, the Soviet Government is committed to respect for the principle of self-determination. But, in contradiction of this, by denying freedom of choice to seventeen million East Germans it has not permitted freedom of choice to the German people as a whole. And it is now proposing to perpetuate that denial by concluding a final settlement with a regime which is not representative of these people, does not enjoy their confidence, and is, in fact, no more than its own creation and an extension of its own authority. Under these circumstances, the part of Germany subject to that regime cannot be regarded as an independent sovereign state, and a “peace treaty” with the part of Germany’s territory termed “German Democratic Republic” by the Soviet Government could have no validity in international law, nor could it affect in any way whatsoever the rights of the Western Powers.

According to the thesis repeatedly expounded by the Soviets, the “separate peace treaty” would, upon its conclusion, terminate the rights of the West in, and with regard to, Berlin. These assertions are untenable and fallacious from a legal point of view, both because such a separate treaty would be legally ineffective, and because neither the Soviet Union nor East Germany can, for the reasons stated above, unilaterally deprive the three Western Powers of their original rights in, and regarding, Berlin. Rights of access to Berlin are inherent in the rights of the Western Powers to be in Berlin. The procedures for the exercise of these rights have been defined in numerous agreements between the Four Governments and were confirmed by the Soviet Government in the Paris Agreement of June 20, 1949 on the termination of the Berlin blockade, and in practice over many years. They cannot be unilaterally abrogated by any act of the Soviet Government. If any one of the Four withdraws from these arrangements, then it is clearly the responsibility of the other Three to make such dispositions with respect to the exercise of their access rights as they deem appropriate.

The Soviet Union further asserts that a “peace treaty,” whether signed by all of the interested parties or not, would bring about the establishment of West Berlin as a “demilitarized Free City.” As proposed, this would bring with it the cessation of the rights of the Western Allies in Berlin, including the right of access.

The United States considers entirely unfounded the Soviet claims that this unilateral act could deprive the other three participants in the joint occupation of Berlin of their basic rights in the City — rights derived from the Nazi surrender, as indicated, and expressed in binding and valid agreements, to which the Soviet Union is a party. The agreements of September 12, 1944 and May 1, 1945 establishing the occupation arrangements for the City were joint undertakings by the occupying powers, all of whom derived rights and obligations from them. The obligations of the Soviet Union to assure the normal functioning of transport and communication between Berlin and the western zones of Germany was reaffirmed in the Four Power Agreement of June 20, 1949. The legal situation was thus jointly created by the Four Powers and cannot be altered except by the common consent of all of them.

The United States wishes particularly to reiterate, in discussing the legal aspects of Berlin’s status, that Soviet references to Berlin as being situated on the territory of the so-called “German Democratic Republic” are entirely without foundation. This can be readily and clearly established by reference to the attached copy of the Protocol of September 12, 1944. The Protocol makes clear that Berlin was not a part of, or located on, the territory to be occupied as a zone by any one of the powers under the Agreement. With respect specifically to the area now constituting the so-called “German Democratic Republic” the Protocol clearly stated that a specified area, described by metes and bounds, “will be occupied by armed forces of the U.S.S.R., with the exception of the Berlin area, for which a special system of occupation is provided below.” The Protocol subsequently clearly specified that “The Berlin area ... will be jointly occupied by armed forces of the U.S., U.K., and the U.S.S.R., assigned by the respective Commanders-in-Chief.” The Soviet Government approved the Protocol on February 6, 1945, and since that time there have been no legal alterations in the special status of Berlin.

The Soviet Union claims that the “free city” of West Berlin would be able to maintain freely its communications with the outside world and determine its domestic order by the free expression of the will of its people. Since, however, the “free city” would in fact be isolated within the so-called “German Democratic Republic,” which according to the Soviet proposal would control all access to and from the City, it is of significance to examine the stated intentions of the leaders of that regime with respect to West Berlin.

The United States notes in particular the statements made by Mr. Ulbricht on June 15 in which he made clear his regime would seek to close Tempelhof Airport, West Berlin’s principal airport and a vital part of its communications with the outside world. In addition, Mr. Ulbricht announced he “considered it a matter of course” that the refugee centers in West Berlin would be closed. These camps are maintained by West Berlin for the constant stream of refugees fleeing from East Germany, and Ulbricht’s statement makes clear the degree to which his regime intends to interfere in West Berlin where it suits his purpose. In view of such statements, it is not surprising if neither the West Berliners nor the Western Powers are reassured by professions of peaceful intent. In this connection, it is relevant to ask why the Soviet Union has chosen to raise the question at all if it has not had in mind a fundamental change in West Berlin.

It is evident that the present status of the City, which the Soviet Union chooses to characterize as an “occupation regime” which “has already outlived itself,” is actually an arrangement that — under the existing abnormal division of Germany — does not constitute any threat to peace. Attempts by the Soviet Union to destroy that arrangement, in pursuit of its political goals, are certain to jeopardize gravely the very peace in the name of which the Soviet action is taken. With respect to the nature of these goals in Berlin itself, it is significant that the Soviet Union, having previously occupied East Berlin and violated its Four Power status by establishing there an alleged “G.D.R.” government, now proposes that its troops will be among those stationed in a “free city” of West Berlin. The Soviet Government would thus seek to extend its postwar empire by the absorption of the Eastern sector of Berlin and to shift the Four Power principle from all of Berlin to the Western part of the city alone.

The immediate cause of this threat to peace arises from the announced intention of the Soviet Government to

present the three Western Powers with a *de facto* situation based on the false assertion that they would no longer be entitled to remain in Berlin, or to have free access thereto. Such a move could lead to highly dangerous developments, and would be totally devoid of legal effect. The United States considers the exercise of its rights together with its British and French Allies, in order to maintain the freedom of over two million people in West Berlin, a fundamental political and moral obligation.

The international dispute arising out of the Soviet claims would have the gravest effects upon international peace and security and endanger the lives and well-being of millions of people. It would be irresponsible on the part of the nations directly concerned not to use available means to settle such a dispute in a peaceful manner.

As in the past, the United States Government is always prepared to consider in agreement with its Allies a freely negotiated settlement of the unresolved problems of Germany. Such a settlement must be in conformity with the principle of self-determination and with the interests of all concerned. The United States Government for its part has never contemplated confronting the Soviet Union with a *fait accompli*. It hopes that for its part the Soviet Government will renounce any idea of taking such action, which, as noted, would have unforeseeable consequences. It thinks it necessary to warn the Soviet Government in all seriousness of the grave dangers of such a course, and to express the hope that the Soviet Government will rather aim, as does the United States Government, at the creation of conditions in which a genuine and peaceful settlement of outstanding problems can be pursued.

Peace and freedom are not merely words nor can they be achieved by words or promises alone. They are representative of a state of affairs.

A city does not become free merely by calling it free. For a city or a people to be free requires that they be given the opportunity without economic, political or police pressure to make their own choice and to live their own lives. The people of West Berlin today have that freedom. It is the objective of our policy for them to continue to have it.

Peace does not come automatically from a "peace treaty." There is peace in Germany today even though the situation is "abnormal." A "peace treaty" that adversely affects the lives and rights of millions will not bring peace with it. A "peace treaty" that attempts to affect adversely the solemn commitments of three great powers does not bring peace with it.

There is no reason for a crisis over Berlin. If one develops it is because the Soviet Union is attempting to invade the basic rights of others. All the world will plainly see that the misuse of such words as "peace" and "freedom" cannot conceal a threat to raise tension to the point of danger and suppress the freedom of those who now enjoy it.