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N A T O C O N F I D E N T I A L

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MEMORANDUM

To: Political Committee at Senior Level

From: The Chairman

POSSIBLE EAST-WEST NEGOTIATIONS:
FREER MOVEMENT OF PEOPLE, INFORMATION AND IDEAS
AND CULTURAL RELATIONS

Attached is a revised version of the section of the report to Council concerning the freer movement of people, information, ideas and cultural relations, which aims at taking into account the amendments suggested at the Committee's meetings of 2nd and 3rd November.

(Signed) Jörg KASTL

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1110 Brussels.

N A T O C O N F I D E N T I A L

4. As one possible approach, groupings of both difficult and easy proposals might be put forward under the four major subject headings already identified by Allied Ministers: freer movement of people, ideas and information and cultural relations. Listing the issues in this way does not prejudge the manner or priority in which Allied negotiators would present them during multilateral discussions.

5. Consonant with this approach, the Allies might propose texts embodying precise understandings on specific liberalising measures along with general statements of intention. Such texts could draw upon UN or other relevant declarations, although it should be kept in mind that these declarations are not necessarily legally binding and some Allies may not have subscribed to them. These texts should then go beyond the expression of a desirable principle to include a binding commitment to put that principle into effect(1). One way to present these statements of commitment and accompanying measures to the Communist countries would be to embody them in four separate instruments containing the four major objectives identified by Ministers. Another possibility would be to embody all commitments in a single, legally binding instrument containing four sub-sections in order to ensure that the more difficult subjects in the field of freer movement are being dealt with together with the items in the field of cultural co-operation. General statements of principle could form the preambular body of each instrument or sub-section and specific measures the main body. These legally binding instruments could take such forms as agreements, conventions, memoranda of understanding, or protocols.

I. FREER MOVEMENT OF PEOPLE

A. Identification of the Problem and Difficulties and Definition of Advantage to be Derived

6. In order to make it possible for the populations of the various participating states with their differing social systems to better know and understand one another, it should be the Alliance's long-term goal in East-West negotiations to achieve maximum liberty of movement in both directions. It is, of course, realistic to suppose that a liberalisation of travel restrictions (involving foreign-exchange problems and bureaucratic obstacles as well as politically motivated controls) can only be obtained step-by-step. It is also realised that national practices vary widely and that some of the Communist countries are less rigid than others in this respect.

(1) It should be borne in mind that the various UN documents contain saving clauses that authorise governments to restrict freedoms granted to the extent necessary to protect public order. Some Warsaw Pact states undoubtedly will try to insist on comparable saving clauses in any agreements connected with a CES and tend to interpret them in practice in such a manner as to vitiate the more liberal operative clauses.

4. As one possible approach, groupings of both difficult and easy proposals might be put forward under the four major subject headings already identified by Allied Ministers: freer movement of people, ideas and information and cultural relations. Listing the issues in this way does not prejudge the manner or priority in which Allied negotiators would present them during multilateral discussions.

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B. Legal Sources

7. Article 13(2) of the Universal Declaration of Human Rights of 1948 proclaims that "everyone has the right to leave any country, including his own, and to return to his country". The Universal Declaration has no binding effect but is a statement of general principles.

8. Article 12(2) of the International Covenant on Civil and Political Rights lays down that "Everyone shall be free to leave any country, including his own", and Article 12(4) that "no one shall be arbitrarily deprived of the right to enter his own country". The Covenant is intended to ensure that the basic rights spelt out in the Universal Declaration are given effective international backing.

9. The Soviet Union abstained when the UNGA adopted the Universal Declaration in 1948. In 1968 it signed the Covenant and thus indicated its general support for its principles. (The Soviet Union, Czechoslovakia, Hungary, Poland and Rumania, have not yet ratified the Convention. Bulgaria, however, has done so.)

C. Listing of Ideas with a View to Formulating a Western Proposal

(1) Possible Elements of Preamble

10. The Parties agree to seek effective means to ensure that the right of every person to travel outside the country to which he belongs and to return should not be arbitrarily or unreasonably abridged. Governments have a responsibility to protect and promote this right of free movement of persons.

(2) Possible Operative Elements

11. The Parties agree to abolish any general requirement for persons living in their territory to obtain exit visas.

12. The Parties undertake not to create or permit to exist other arbitrary obstacles to the movement of individuals from one country to another.

13. The Parties agree to promote a special high-level meeting of the International Union of Tourist Organizations to find ways to facilitate travel throughout the territories of the participating states, including special travel cards issued to young persons to enable them to use public transport at a reduced cost. The meeting could also discuss the relationship between tourism and culture.

14. Subject to further studies on the possible administrative implications:

- (a) The Parties agree to take specific actions facilitating travel, e.g. reduction of passport fees; liberalisation of foreign exchange allowances; and abolition of restrictions on routes taken by persons travelling by motor car, except in the limited areas which are restricted for national security reasons - these areas should be defined by published regulations and not by arbitrary administrative regulations.
- (b) The Parties agree to lift restrictions on marriage between nationals of the participating countries, to permit married persons and their children to emigrate to join their spouses, and to permit family and individual visits by their nationals especially when they are invited by the nationals of other countries who agree to pay all pertinent costs.

II. FREER MOVEMENT OF INFORMATION

A. Identification of the Problem and Difficulties and Definition of Advantage to be Derived

15. All the Communist countries maintain strict controls over the dissemination of information via domestic media. Such controls are not likely to be abandoned completely inasmuch as they are considered indispensable to the survival of the régime. It is possible, however, that existing practices could be modified to permit some greater circulation of foreign books, newspapers and periodicals as well as wider showing of foreign television programmes and films. Western journalists in Eastern countries should be permitted to work under conditions not less favourable than those accorded their Eastern counterparts in the West. Jamming of radio broadcasts as well as transmission of subversive broadcasts should be discontinued.

B. Legal Sources

16. Article 19 of the Universal Declaration of Human Rights (adopted by the UNGA in December 1948, with the Soviets abstaining) states the right of everyone to receive information and ideas through any media and regardless of frontiers. Article 19(2) of the International Covenant on Civil and Political Rights lays down that "everyone shall have the right to freedom of expression: this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice". This right is qualified by Article 19(3) which lays down that certain restrictions can be imposed in order to prevent slander and libel and for the protection of national security, public order, etc. But these restrictions have to be provided by law.

17. The third preambular paragraph of the UNESCO Declaration on the Principles of International Cultural Co-operation (unanimously adopted in November 1966) records the members determination to increase the means of communication between their peoples.

18. In addition, there are pending in the UN the Draft Declaration on Freedom of Information and the Draft Convention on Freedom of Information.

(a) The fourth preambular paragraph of the Draft Declaration on Freedom of Information (adopted by ECOSOC in 1960, with the Soviets abstaining) states that freedom of information is fundamental to peaceful and friendly relations between peoples and nations, and that barriers to the free flow of information obstruct international understanding and impair prospects for world peace. Article 2 of the same Declaration would register the intent of governments to protect the free flow of information across frontiers.

(b) Article 1(B) of the Draft Convention on Freedom of Information states that "each contracting State shall secure to its own nationals ... freedom to gather, receive and impart without Government interference, ... regardless of frontiers, information and opinions orally, in writing or in print, in the form of art or by duly licensed visual or auditory devices". Article 2(2) of the Draft Convention states: "The restrictions (to protect national security and public order, incitement of religious hatred, etc.) shall not be deemed to justify the imposition by any State of prior censorship on news, comments and political opinion." However, the General Assembly has not yet adopted the Convention and has so far approved only the preamble and Articles 1-4.

C. Listing of Ideas with a View to Formulating a Western Proposal

(1) Possible Elements of Preamble

19. The Parties agree to seek effective means to increase communications between their peoples, so that the free flow of information will improve mutual understanding.

(2) Possible Operative Elements

20. The Parties agree not to cause harmful interference to one another's radio services or communications, and condemn such measures as constituting a denial of the right of all persons to be fully informed concerning news, opinions and ideas.

21. The Parties, recognising that subversive radio broadcasts are harmful to the further development of an atmosphere of détente and co-operation in Europe, agree not to allow such transmissions from their territories, aiming at inter alia, interference in internal affairs or the overthrow of régimes.

OR

21. The Parties agree not to allow the transmission from their territories of broadcasts which aim at overthrowing the régimes of the other parties, or which purport to emanate from areas other than those in which they actually originate.

22. The Parties endorse the following general guidelines with regard to the activities of foreign journalists:

- (i) Journalists' visa applications will be issued or refused with a minimum of delay.
- (ii) Foreign journalists will be permitted to travel freely throughout their countries of assignment without special permission other than their original entry visas except in the limited areas which are restricted for national security reasons; these areas should be defined by published regulations and not by arbitrary administrative action.
- (iii) Foreign journalists may have contacts with citizens of the host country without being obliged to obtain permission from the host government or to arrange such contacts through government agencies.
- (iv) Governments will not discourage their officials or private citizens from having normal contacts with foreign press representatives.
- (v) Governments will not arbitrarily expel or refuse accreditation to correspondents.

23. The Parties agree to promote the free circulation of books, newspapers and periodicals among their respective countries. This should be accomplished by utilising commercial channels as well as through expanded facilities for national information centres and libraries.

III. FREER MOVEMENT OF IDEAS

A. Identification of the Problem and Difficulties and Definition of Advantage to be Derived

24. A freer movement of information must be supplemented by freer circulation of ideas, as conveyed through personal contacts and exchanges of experience, exhibits of the fine

arts and architecture, and literature of all kinds, including fiction, biography, philosophy, and scholarly works including those in the political, social and natural sciences.

B. Legal Sources

25. For the most part, the principles underlying freer movement of information (see paragraphs 16 through 18) apply, either explicitly or by extension, to freer movement of ideas.

26. Article 15(1)(C) of the International Covenant on Economic, Social and Cultural Rights lays down that everyone has the right "to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author". Article 15(4) of this Covenant states "The States Parties to the present Covenant recognise the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields." (As in the case of the Covenant on civil and political rights the Soviet Union, Czechoslovakia, Hungary, Poland, Rumania and Bulgaria have all signed the Convention but only Bulgaria has so far ratified).

C. Listing of Ideas with a View to Formulating a Western Proposal

(1) Possible Elements of Preamble

27. The Parties agree to seek effective means to promote a creative exchange of ideas and experiences without regard to political and social systems or national boundaries.

(2) Possible Operative Elements

28. The Parties agree that exchanges between libraries should be increased and that governments who wish to do so may sponsor within the territories of the participants book stores open to the general public for the sale of books, newspapers and periodicals and graphic arts.

29. Interested Parties agree to promote co-operation in the socio-cultural field (sociology, education, housing, urban problems, criminology, etc.). /In this connection, it might be useful to reinforce the activities of the European Centre for Social Science in Vienna./

30. The Parties agree that interested government and educational representatives would examine the possibilities for achieving the equivalence of diplomas and university degrees.

31. All Parties who have not already done so agree to sign the Universal Copyright Convention of 1952 and the Berne Copyright Convention which, with the Universal Convention, was revised in Paris this year. They further agree that foreign authors, scientists, artists and lecturers are entitled to receive their fees and royalties in convertible currency.

IV. CULTURAL RELATIONS

A. Identification of Problem and Difficulties and Definition of Advantage to be Derived

32. The definition of the term "cultural co-operation" should be based on the "Declaration of the Principles of International Cultural Co-operation" unanimously approved by UNESCO on 4th November, 1966. The centre of this declaration is the aim of international cultural co-operation. This co-operation is to cover all aspects of intellectual and creative activities in the fields of education, science and culture. The aim of international cultural co-operation is inter alia to contribute to the development of better mutual understanding. We understand cultural co-operation to mean not only information on our culture but in the first place cultural exchange and co-operation.

B. Legal Sources

33. This UNESCO declaration is in our view a suitable basis for the definition of the term "Cultural Co-operation" also within the framework of a CES because agreement on the content of the term "Culture" defined therein has already been achieved between a multitude of states of different systems.

C. Listing of Ideas with a View to Formulating a Western Proposal

(1) Possible Elements of Preamble

34. The Parties undertake to expand and improve their existing bilateral exchange programme, both governmental and non-governmental, with emphasis on increasing the number of long-term exchanges between members of universities and research institutes. They also undertake to explore the extent to which, in some fields, multilateral programmes may be possible.

(2) Possible Operative Elements

35. The Parties agree that their citizens should have free access to cultural centres, language institutes and libraries; that the number of these institutions might be expanded; and that these institutions should be permitted free distribution of information concerning their respective countries.

36. The Parties agree that governments, in their bilateral programmes, will attempt to increase the level of official exchanges, particularly in the field of the humanities, social sciences, and science and technology, sports and games, and the performing arts.

37. The Parties agree to encourage exchanges between members of the universities (researchers, professors, specialised delegations) in all fields, including science.

38. The Parties could examine the possibilities of setting up an "Ecole Normale européenne pour l'Enseignement supérieur".

39. The Parties agree to facilitate the circulation and exchange of scholarly works in all fields.

40. The Parties agree to examine further the possibilities for:

- (i) conclusion of multilateral copyright agreements;
- (ii) conclusion of multilateral agreements on the recognition of school-leaving certificates and university diplomas;
- (iii) conclusion of agreements leading eventually to the creation of a free trade area for educational facilities and cultural property (including books, periodicals, films and radio and television materials).

41. The Parties agree to improve the exchange of films and television materials, to promote film festivals and to further the possibilities of joint film co-operation.

42. The Parties agree to encourage a conference of their national youth organizations with a view to establishing a European Youth Foundation and European Youth Centres to provide welcoming, counselling, linguistic, health and other services to foreign students and other young travellers(1).

(1) This Conference should also take into account the work already done by the Council of Europe in order to avoid duplication.