



## German History in Documents and Images

### Volume 8. Occupation and the Emergence of Two States, 1945-1961

Decisions of the Conference of the Foreign Ministers of the Three Western Powers in Washington, DC (April 8, 1949)

The agreements reached in early April 1949 at the Washington conference of the foreign ministers of the three western powers regulated the future relationship between the occupying powers and the Federal Republic of Germany. The military government was replaced by an Allied High Commission whose internal operation would be regulated by the agreement on Trizonal Fusion. The Occupation Statute stipulated that the Allies would retain their power in important political areas for the time being and reclaim full political authority if necessary.

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#### **U.S., U.K., and France Reach Agreement on All Questions Relating to Germany: Communiqué**

The Foreign Ministers of the United States, United Kingdom, and France have discussed in Washington the whole range of issues now pending in connection with Germany and have arrived at complete agreement.

The text of an occupation statute in a new and simpler form has been approved and is being transmitted to the German Parliamentary Council at Bonn. Agreement was reached on the basic principles to govern the exercise of Allied powers and responsibilities and also the tripartite Allied control machinery. The Foreign Ministers confirmed and approved agreements on the subject of plant dismantling, prohibited and restricted industries, and the establishment of an International Ruhr Authority, all of which were recently negotiated in London.

The occupation statute will define the powers to be retained by the occupation authorities upon the establishment of the German Federal Republic and set forth basic procedures for the operation of Allied supervision. Subject only to the limitations of the statute, the German Federal State and the participating *Länder* will have full legislative, executive, and judicial powers, in accordance with the basic law and with their respective constitutions. The statute aims to permit the German people to exercise democratic self-government. Provision is made for a review of the terms of the statute after a year in force.

With the establishment of the German Federal Republic, there will be a marked change in the organization to carry out occupation responsibilities. Military Government as such will be terminated, and the functions of the Allied authorities will become mainly supervisory. Each of

the Allied establishments in Germany will come under the direction of a High Commissioner, aside from the occupation forces which will remain headed by military commanders. The three High Commissioners together will constitute an Allied High Commission, which will be the supreme Allied agency of control. In order to permit the German Federal Republic to exercise increased responsibility for domestic affairs and to reduce the burden of occupation costs, staff personnel shall be kept to a minimum.

The German Government authorities will be at liberty to take administrative and legislative action, and such action will have validity if not disapproved by Allied authorities. There will be certain limited fields in which the Allies will reserve the right to take direct action themselves or to direct German authorities to take action. However, these fields will be limited, and aside from security matters, the exercise of direct powers by the Allies is regarded in many instances as self-liquidating in nature.

It was agreed that a major objective of the three Allied Governments was to encourage and facilitate the closest integration, on a mutually beneficial basis, of the German people under a democratic federal state within the framework of a European association. In this connection it is understood that the German Federal Republic will negotiate a separate bilateral ECA agreement with the United States and should participate as a full member in the Organization for European Economic Cooperation, thus becoming a responsible partner in the European Recovery Program.

[Washington, April 8, 1949]

### **Allied Powers and Responsibilities: Text of Occupation Statute**

In the exercise of the supreme authority which is retained by the Governments of France, the United States and the United Kingdom,

We, GENERAL PIERRE KOENIG, Military Governor and Commander-in-Chief of the French Zone of Germany,

GENERAL LUCIUS D. CLAY, Military Governor and Commander-in-Chief of the United States Zone of Germany, and

GENERAL SIR BRIAN HUBERT ROBERTSON, Military Governor and Commander-in-Chief of the British Zone of Germany,

DO HEREBY JOINTLY PROCLAIM THE FOLLOWING OCCUPATION STATUTE:

1. During the period in which it is necessary that the occupation continue, the Governments of France, the United States and the United Kingdom desire and intend that the German people

shall enjoy self-government to the maximum possible degree consistent with such occupation. The Federal State and the participating *Länder* shall have, subject only to the limitations in this Instrument, full legislative, executive and judicial powers in accordance with the Basic Law and with their respective constitutions.

2. In order to ensure the accomplishment of the basic purposes of the occupation, powers in the following fields are specifically reserved, including the right to request and verify information and statistics needed by the occupation authorities:

(a) disarmament and demilitarization, including related fields of scientific research, prohibitions and restrictions on industry and civil aviation;

(b) controls in regard to the Ruhr, restitution, reparations, decartelization, deconcentration, nondiscrimination in trade matters, foreign interests in Germany and claims against Germany;

(c) foreign affairs, including international agreements made by or on behalf of Germany;

(d) displaced persons and the admission of refugees;

(e) protection, prestige, and security of Allied forces, dependents, employees, and representatives, their immunities and satisfaction of occupation costs and their other requirements;

(f) respect for the Basic Law and the Land constitutions;

(g) control over foreign trade and exchange;

(h) control over internal action, only to the minimum extent necessary to ensure use of funds, food and other supplies in such manner as to reduce to a minimum the need for external assistance to Germany;

(i) control of the care and treatment in German prisons of persons charged before or sentenced by the courts or tribunals of the occupying powers or occupation authorities; over the carrying out of sentences imposed on them; and over questions of amnesty, pardon or release in relation to them.

3. It is the hope and expectation of the Governments of France, the United States and the United Kingdom that the occupation authorities will not have occasion to take action in fields other than those specifically reserved above. The occupation authorities, however, reserve the right, acting under instructions of their Governments, to resume, in whole or in part, the exercise of full authority if they consider that to do so is essential to security or to preserve democratic government in Germany or in pursuance of the international obligations of their governments. Before so doing, they will formally advise the appropriate German authorities of their decision and of the reasons for it.

4. The German Federal Government and the governments of the *Länder* shall have the power, after due notification to the occupation authorities, to legislate and act in the fields reserved to these authorities, except as the occupation authorities otherwise specifically direct, or as such legislation or action would be inconsistent with decisions or actions taken by the occupation authorities themselves.

5. Any amendment of the Basic Law will require the express approval of the occupation authorities before becoming effective. Land constitutions, amendments thereof, all other legislation, and any agreements made between the Federal State and foreign governments, will become effective twenty-one days after official receipt by the occupation authorities unless previously disapproved by them, provisionally or finally. The occupation authorities will not disapprove legislation unless in their opinion it is inconsistent with the Basic Law, a Land Constitution, legislation or other directives of the occupation authorities themselves or the provisions of this Instrument, or unless it constitutes a grave threat to the basic purposes of the occupation.

6. Subject only to the requirements of their security, the occupation authorities guarantee that all agencies of the occupation will respect the civil rights of every person to be protected against arbitrary arrest, search or seizure; to be represented by counsel; to be admitted to bail as circumstances warrant; to communicate with relatives; and to have a fair and prompt trial.

7. Legislation of the occupation authorities enacted before the effective date of the Basic Law shall remain in force until repealed or amended by the occupation authorities in accordance with the following provisions:

(a) legislation inconsistent with the foregoing will be repealed or amended to make it consistent herewith;

(b) legislation based upon the reserved powers, referred to in paragraph 2 above, will be codified;

(c) legislation not referred to in (a) and (b) will be repealed by the occupation authorities on request from appropriate German authorities.

8. Any action shall be deemed to be the act of the occupation authorities under the powers herein reserved, and effective as such under this Instrument, when taken or evidenced in any manner provided by any agreement between them. The occupation authorities may in their discretion effectuate their decisions either directly or through instructions to the appropriate German authorities.

9. After 12 months and in any event within 18 months of the effective date of this Instrument the occupying powers will undertake a review of its provisions in the light of experience with its operation and with a view to extending the jurisdiction of the German authorities in the legislative, executive and judicial fields.

### **Agreement on Basic Principles for Trizonal Fusion**

The Governments of the United Kingdom, France and the United States agree to enter into a trizonal fusion agreement prior to the entry into effect of the Occupation Statute. The representatives of the three occupying powers will make the necessary arrangements to establish tripartite control machinery for the western zones of Germany which will become

effective at the time of the establishment of a provisional German government. The following provisions agreed by the Governments of the United Kingdom, France and the United States shall form the basis of those arrangements:

1. An Allied High Commission composed of one High Commissioner of each occupying power or his representative shall be the supreme Allied agency of control.

2. The nature and extent of controls exercised by the Allied High Commission shall be in harmony with the Occupation Statute and international agreements.

3. In order to permit the German Federal Republic to exercise increased responsibilities over domestic affairs and to reduce the burden of occupation costs, staff personnel shall be kept to a minimum.

4. In the exercise of the powers reserved to the Occupation Authorities to approve amendments to the Federal Constitution, the decisions of the Allied High Commission shall require unanimous agreement.

5. In cases in which the exercise of, or failure to exercise, the powers reserved under paragraph 2 (g) of the Occupation Statute would increase the need for assistance from United States Government appropriated funds, there shall be a system of weighted voting. Under such system the representatives of the Occupation Authorities will have a voting strength proportionate to the funds made available to Germany by their respective governments. This provision shall not, however, reduce the present United States predominant voice in JEIA and JFEA while these organizations, or any successor organization to them, continue in existence and are charged with the performance of any of their present functions. No action taken hereunder shall be contrary to any inter-governmental agreement among the signatories or to the principles of nondiscrimination.

6. On all other matters action shall be by majority vote.

7. (a) If a majority decision alters or modifies any inter-governmental agreement which relates to any of the subjects listed in paragraph 2 (a) and 2 (b) of the Occupation Statute, any dissenting High Commissioner may appeal to his Government. This appeal shall serve to suspend the decision pending agreement between the three governments.

(b) If a High Commissioner considers that a majority decision conflicts with any intergovernmental agreement which relates to any of the subjects in paragraph 2 (a) and 2 (b) of the Occupation Statute or with the fundamental principles for the conduct of Germany's external relations or with matters essential to the security, prestige, and requirements of the occupying forces, he may appeal to his Government. Such an appeal shall serve to suspend action for 30 days, and thereafter unless two of the Governments indicate that the grounds do not justify further suspension.

(c) If such appeal is from an action of the Allied High Commission either declining to disapprove or deciding to disapprove German legislation, such legislation shall be provisionally disapproved for the duration of the appeal period.

8. A High Commissioner who considers that a decision made by less than unanimous vote involving any other matter reserved by the Occupation Statute is not in conformity with basic tripartite policies regarding Germany or that a Land constitution, or an amendment thereto, violates the Basic Law, may appeal to his government. An appeal in this case shall serve to suspend action for a period not to exceed twenty-one days from the date of the decision unless all three governments agree otherwise. If such appeal is from an action of the Allied High Commission either declining to disapprove or deciding to disapprove German legislation, such legislation shall be provisionally disapproved for the duration of the appeal period.

9. All powers of the Allied High Commission shall be uniformly exercised in accordance with tripartite policies and directives. To this end in each Land the Allied High Commission shall be represented by a single Land Commissioner who shall be solely responsible to it for all tripartite affairs. In each Land the Land Commissioner shall be a national of the Allied Power in whose zone the Land is situated. Outside his own zone each High Commissioner will delegate an observer to each of the Land Commissioners for purposes of consultation and information. Nothing in this paragraph shall be construed to limit the functions of bodies established pursuant to inter-governmental agreement.

10. To the greatest extent possible, all directives and other instruments of control shall be addressed to the federal and/or Land authorities.

11. The Trizonal Fusion Agreement will continue in force until altered by agreement among the governments.

Source: United States Department of State, *Germany 1947-1949: The Story in Documents*. Washington, DC: U.S. Government Printing Office 1950, pp. 88-92.