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Authority E.O. 12958
By FU/NARA Date 7-23-02

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AUGUST 13, 1971

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TO: HENRY A. KISSINGER
FROM: AMBASSADOR RUSH

1. I HAVE BEEN RELYING ON OUR CABLES TO KEEP YOU INFORMED CONCERNING THE COURSE OF THE TALKS THIS WEEK. I HAVE HAD NO TIME TO SEND A MESSAGE THROUGH OUR CHANNEL BECAUSE OF CONTINUOUS SESSIONS WITH BAHR AND SCHUETZ, THE BRITISH AND FRENCH AMBASSADORS, AND MY STAFF TO KEEP UP WITH THE PACE OF THE NEGOTIATIONS, WHICH, AS YOU KNOW, RAN NINE HOURS DURING EACH OF THE FIRST TWO DAYS.
2. AS YOU KNOW FROM THE CABLES, THE NEGOTIATIONS HAVE GONE VERY WELL, ALMOST ENTIRELY ACCORDING TO SCRIPT. ON IMPORTANT MATTERS ABRASIMOV HAS PLAYED HIS PART PRETTY MUCH AS PLANNED AND DONE VERY WELL. IT HAS BEEN DIFFICULT FOR US TO MAINTAIN COMMUNICATION AND NOT AROUSE SUSPICION, BUT OUR CONTACT HAS BEEN ADEQUATE. THE BIG PROBLEM HAS COME FROM THE BRITISH AND FRENCH AMBASSADORS, BOTH OF WHOM ARE VERY FIRST-CLASS AS MEN BUT NEITHER OF WHOM I BELIEVE HAS EVER TAKEN A LEADING ROLE IN IMPORTANT NEGOTIATIONS BEFORE. THEY ARE BOTH PROFESSIONAL FOREIGN SERVICE OFFICERS, THEREFORE BUREAUCRATIC. BOTH ALSO HAVE LOW BOILING POINTS, ARE NERVOUS AND BECOME EMOTIONALLY INVOLVED OVER PET IDEAS AND PHRASES. ABRASIMOV IS KEEN ENOUGH TO KNOW THIS AND PLAYS ON IT TO THE FULL. ON WEDNESDAY, THE SITUATION GOT OUT OF HAND AND ALMOST THE ENTIRE AFTERNOON WAS LOST IN VERY ACRIMONIOUS DISCUSSION BETWEEN JACKLING AND ABRASIMOV, WITH ABRASIMOV RESORTING TO UNACCEPTABLE PERSONAL REMARKS. YESTERDAY HE GOT BACK ON THE TRACK. WE MAY BE ABLE TO COMPLETE VIRTUALLY EVERYTHING ON MONDAY.

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3. OUR STRATEGY OF AN INTENSE MARATHON SESSION HAS WORKED VERY WELL, AND THE FRENCH BRITISH, GERMAN FOREIGN OFFICE, AND, I BELIEVE, THE STATE DEPARTMENT, ARE IN SOMETHING OF A STATE OF STUPOR AT THE RAPIDITY OF THE MOVEMENT. YESTERDAY SAUVAGNARGUES AND JACKLING REGISTERED CONSIDERABLE DISQUIET OVER HOW FAST THINGS WERE MOVING, AND IT WAS NOT DIFFICULT TO SLOW THEM FOR A WHILE. THIS WAS DONE BY ATTEMPTING TO DRAFT A SIMPLE SENTENCE IN THE FINAL QUADRIPARTITE PROTOCOL, WHICH IS CLOSE TO SAUVAGNARGUES' HEART. OVER TWO HOURS WERE TAKEN IN CHANGING A FEW WORDS WITHOUT SUBSTANTIALLY CHANGING THE MEANING. IF THE SAME PROCEDURE HAD BEEN FOLLOWED THROUGHOUT ALL PARTS OF THE NEGOTIATION WE PROBABLY WOULDN'T BE ABLE TO FINISH WITHIN THE NEXT DECADE.
4. BAHR AND FALIN WERE BOTH IN BERLIN DURING MOST OF THE WEEK, WHICH WAS A GREAT HELP SINCE I COULD COMMUNICATE FREELY WITH BAHR AND HE IN TURN WITH FALIN.
5. THE TEXT OF THE FINAL AGREEMENT, AS YOU HAVE DOUBTLESS NOTICED, IS ALMOST PRECISELY THAT PREVIOUSLY SETTLED IN MY TALKS WITH BAHR AND FALIN, ALTHOUGH ON ACCESS WE HAVE SOME IMPORTANT IMPROVEMENTS AND I THINK WILL GET THE REMAINDER ON MONDAY. THE DISTURBING CLAUSE IN ANNEX I C WITH REGARD TO INSPECTION OF SEALED TRAINS AND SEARCH OF INDIVIDUALS AND THEIR LUGGAGE HAS NOW BEEN CHANGED TO KNOCK OUT "AS A RULE" IN "WILL, AS A RULE". THIS IS NOW DEFINITE WITH REGARD TO PARAGRAPH II A OF ANNEX I RELATING TO SEALED TRAINS. IN PARAGRAPH II C OF ANNEX I, ABRASIMOV HAS PROPOSED LANGUAGE OUTLINING JUST WHEN SEARCH CAN BE MADE, BUT HIS LANGUAGE IS MUCH TOO BROAD. I HOPE WE WILL BE ABLE TO GET THIS IN THE FORM THAT WE WANT IT.

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6. BAHR ENCOUNTERED DELAYS WITH THE FOREIGN OFFICE AND WITH SCHEEL WITH REGARD TO THE CHANGES WE HAVE MADE IN ANNEX II (ALSO PART II B) TO THE EFFECT THAT "CONSTITUENT PART" WOULD BE SUBSTITUTED FOR "REGARDED AS A LAND" AND THAT THE PROVISIONS OF THE BASIC LAW AND THE CONSTITUTION WHICH CONTRADICT THE ABOVE PROVISIONS WOULD READ "CONTINUE NOT TO BE IN EFFECT" INSTEAD OF "BE SUSPENDED." BAHR GOT AGREEMENT ON THE BASIC CHANGE OF "LAND" TO "CONSTITUENT PART" BUT SCHEEL WANTS TO SAY CONTINUE "NOT TO BE REGARDED" AS A CONSTITUENT PART AND "HAVING BEEN SUSPENDED," CONTINUE NOT TO BE IN EFFECT. THIS, OF COURSE, WILL BE TURNED DOWN BY THE RUSSIANS, AND BAHR SAYS THAT HE WILL THEN HAVE NOT TOO MUCH DIFFICULTY IN CORRECTING THE PROBLEM.

7. THE OTHER MAJOR ITEMS REMAINING TO BE SETTLED ARE THE PREAMBLE AND PART I, WHICH MAY CAUSE CONSIDERABLE TROUBLE, THE USE OF FRG PASSPORTS BY WEST BERLINERS IN RUSSIA, AND SOVIET PRESENCE IN WEST BERLIN, INCLUDING THE CONSULATE GENERAL. WITH REGARD TO THE CONSULATE GENERAL, ABRASIMOV SAID AT LUNCH THAT THE SOVIETS WOULD TAKE A CONSULATE IF WE WOULD DROP THE DEMAND FOR USE OF FRG PASSPORTS IN RUSSIA. WE WILL DISCUSS THIS WITH BAHR AND BRANDT THIS MORNING, BUT THE ANSWER IS OBVIOUSLY "NO!"

8. I SHALL PROBABLY GET OFF TO THE STATE DEPARTMENT TODAY A REQUEST TO BE RELEASED FROM THE INSTRUCTIONS NOT TO INCLUDE "AFTER CONSULTATION AND AGREEMENT WITH THE GDR" IN PART I A AND PART III A. THE FRENCH ARE MORE EMOTIONALLY COMMITTED TO ELIMINATION OF THIS THAN EVER, AND JACKLING IS STAYING WITH THEM, SO SOME REAL EFFORTS MAY BE NEEDED TO PRY THE MATTER LOOSE. IN TALKING LAST NIGHT ON THE PLANE WITH THE BRITISH LAWYER ON WHOM JACKLING HEAVILY RELIES, I DISCOVERED THAT HE AGREES WITH ME THAT INCLUSION OF THE PHRASE NOT ONLY PREVENTS REAL INCONSISTENCY BUT ALSO ADDS REAL STRENGTH TO THE PROVISION, AND THAT MAY HELP CHANGE JACKLING'S VIEWPOINT. IT WOULD BE HELPFUL IF WHEN THE REQUEST COMES IN YOUR VIEWS COULD BE MADE KNOWN TO THE STATE DEPARTMENT, BUT I REALIZE THAT YOU MAY CONSIDER THIS TO BE UNTIMELY.

9. THANKS VERY MUCH FOR THE EXCELLENT INSTRUCTION WITH REGARD TO THE CONSULATE GENERAL. IT IS VERY SKILLFULLY DRAFTED.

10. BAHR AND I ARE SEEING FALIN THIS EVENING, AND I HOPE THAT WE CAN RESOLVE THE AS YET UNRESOLVED ISSUES THEN. I WILL SEND YOU A MESSAGE TOMORROW ABOUT THIS.

WARM REGARDS.

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