

## EXPLANATORY REMARKS

### 1. CATEGORIES OF DOCUMENTS USED

The materials used in this Summary which document by subject matter the most significant aspects of the occupation of Germany, can be divided into four categories according to their origin.

- a. Agreements which emerged from international conferences held by the heads of government of the states concerned.
- b. The Declaration of Surrender and the Statements regarding Germany by the governments of the four occupying powers, signed by the Commanders-in-Chief prior to the inauguration of the Control Council.
- c. Statements which emanated from Foreign Ministers Conferences and Council of Foreign Ministers (CFM) sessions.
- d. Basic Control Council Legislation and Control Council action still pending on matters referred to it by the Council of Foreign Ministers (CFM), Moscow, session.

Categories "b", "c", and "d" are composed of quadripartite documents. Those in category "a" are tripartite with the exception of the Atlantic Charter which was drawn up by President Roosevelt and Prime Minister Churchill. At Yalta, however, the Soviet Union accepted the provisions of this Charter as the guiding principles to be followed in shaping the political future of Europe, thus making it, to all intents and purposes, a tripartite document.

### 2. INTERNATIONAL AGREEMENTS

Documents falling under this heading as used in this Summary, are those in categories "a" and "b". They start with the Atlantic Charter which sets out the

general humanitarian principles which today, almost three years after the termination of hostilities, should apply to all countries. The Yalta Declaration outlines the general ideas for the treatment of Germany. The Declaration of Surrender embodies the assumption of supreme authority by the Commanders-in-Chief and sets forth the detailed provisions of the demilitarization of Germany concomitant with the surrender of the Wehrmacht.

The Statements by the Commanders-in-Chief (dated 5 June 1945) represent the documentary basis for the occupation of Germany; delineate the physical division of Germany into four zones and the City of Berlin into four sectors, and define the control machinery for Germany which has remained essentially unchanged. Although proclaimed by the Commanders-in-Chief, these statements represent agreements by the governments of the four occupying powers.

Finally, the Potsdam Agreement represents a more concrete formulation of policy to govern the quadripartite occupation of Germany. It should be noted that this Agreement is not binding on France who was not a signatory at Potsdam. A few pertinent statements contained in the declarations emanating from the Moscow Tripartite Foreign Ministers Conference and the Teheran meeting are also included.

### 3. CONTROL COUNCIL LEGISLATION

Control Council legislation is mainly based on the Declaration of Surrender and the Potsdam Agreement.

This legislation, consisting of a considerable number of Control Council laws, directives, orders, instructions and enacted papers covers certain major fields of government. Rather than reproduce all these documents - a process which could easily obscure

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fundamental issues and extend this Summary into several volumes - only the basic legislation, chosen with the assistance of the OMGUS Divisions concerned, has been presented. Control Council legislation is a continuous operation. However, the essential laws that govern Germany today on a quadripartite basis were formulated and promulgated mostly during the first two years of occupation. They may be found in this Summary.

#### 4. COUNCIL OF FOREIGN MINISTERS (CFM) PAPERS.

The absence of comprehensive Control Council legislation in the spheres of governmental structure, political parties and trade unions, electoral procedure, reparations and economic questions, reflects the difficulties encountered in reaching quadripartite agreement on these vital subjects. The same difficulties account for the numerous disagreements appearing in the Council of Foreign Ministers (CFM) papers on the same subjects.

These documents also show the principal differences between the four powers:

a. in their interpretation of the Potsdam Agreement, and

b. in their views regarding the future political developments in Germany transcending the scope of the provisions of the Potsdam Agreement which, of necessity, was designed for a period of transition only.

The documents emanating from the CFM, Moscow, 1947, session which are included in this Summary represent quadripartite reports of the Deputies for Germany to the Council and were approved by it.

The CFM papers pertaining to the London, 1947, session, in absence of quadripartite reports, had to be compiled solely on the basis of the Minutes prepared by the U.S. Delegation during the Conference. Consequently, they lack the stamp of official quadripartite approval. It should also be noted that the "Drafting Committee" mentioned in the London papers was never appointed by the Council.

With regard to Germany, the London meeting covered only questions relating to the preparation of the German peace treaty and certain subjects in the field of economics and reparations. Therefore, no London quadripartite agreements or disagreements on the political organization of Germany and on the other problems covered by the Moscow Conference will be found. Attention is drawn to the fact that in all CFM (Moscow and London) papers reproduced here, "The position of each delegation with respect to each proposal is dependent upon reaching agreement as a whole on the related problems of the level of industry, reparations and the treatment of Germany as an economic unit" (page 8, Part II, CFM/47/M/148).

#### 5. CONTROL COUNCIL ACTION ON CFM SUBJECTS

Certain agreed and unagreed subjects emanating from the Council of Foreign Ministers (CFM), Moscow, 1947, Conference were referred for action, consideration and study, or information, to the Control Council in Berlin.

Of the agreed CFM subjects, a few resulted in quadripartite legislation, while others were disagreed at the Control Council level. On certain unagreed subjects, negotiations, until now inconclusive, are still being pursued.

Such negotiations, involving the peregrination of subjects from one level of the Control Council machinery to the other without leading to any reconciliation of

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views, result in the accumulation of a considerable amount of documents. It would serve no useful purpose to reproduce these documents for each subject in this category.

For this reason, Control Council action on only a few selected unagreed items was included in this volume in order to present typical examples, rather than to burden the Summary with the inclusion of the entire record of negotiations lacking any significance. However, when such record of Control Council action is not presented as a separate document, a footnote on the corresponding Council of Foreign Ministers, Moscow, paper indicates the present status.

It should be noted that a considerable number of unagreed subjects was never taken up by the Control Council.

6. NOMENCLATURE

Although the official original documents refer to the "Crimea Conference" or the "Crimea Conference Communiqué", and to the "Report on the Tripartite Conference of Berlin" or the "Berlin Protocol" - at international conferences the former is usually mentioned, orally and in writing, as the Yalta Conference or just Yalta, while the latter has been firmly established in common usage as the "Potsdam Agreement". In order to avoid confusion arising from the fact that, for example, a section entitled "Berlin Protocol Statements" should contain references to the "Potsdam Agreement" only, the now established nomenclature (Yalta Conference and Potsdam Agreement) has been used throughout.

7. GENERAL REMARKS

Since this Summary presents all the materials grouped around specific subject matters, only pertinent articles contained in international agreements are included in each section. In order to enable the study of the complete texts, the most important documents are included in their entirety in the Miscellaneous Section of the volume. This Section also contains, next to certain CFM papers, a chronology of the international conferences mentioned in this Summary and the agenda of the two CFM meetings devoted to the German problem. Within each Section, the documents are grouped in categories, according to their origin. The categories, in turn, are arranged in a chronological manner. A Subject Index with cross references has been added at the end of the volume in order to enable easy orientation.

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Berlin, Germany  
16 February 1948