

Walter Scheel, The German-Polish Treaty

Caption: In 1970, Walter Scheel, Foreign Minister of the Federal Republic of Germany (FRG), outlines the importance of clarifying the border issue between West Germany and Poland for their future bilateral relations.

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The German-Polish Treaty

by Walter Scheel, Federal Minister for Foreign Affairs

Ever since the middle of the 18th century, the once so powerful and flourishing Polish State has increasingly fallen between the millstones of the old and new Great Powers in the East. Poland's history is one of Poland's partitionings. Repeatedly and over a long period, Poland's political existence was extinguished. The Third Reich even tried to annihilate the biological substance of the Polish nation and in any event wished to degrade it to the level of a Helot community.

Even the Polish State, resurrected after the Second World War, *Polonia restituta*, came into existence only after frontier shiftings and migrations of peoples. Not only did the burden fall upon Germans but upon millions of Poles as well.

No one can wonder that, after these experiences, the frontier question has plainly become the cardinal question for Poland. Every attack on the integrity of her national territory must be felt as an attack on her very existence. The trauma of having to be a "State on wheels" is very near the fear of non-existence. For Poland, the desire of every State for "secured frontiers" has a special significance.

Among the serious political forces in the Federal Republic of Germany there is scarcely anyone who is opposed to a German-Polish understanding and a reconciliation, who does not speak in favour of better relations, increased exchange, cooperation. Had this been possible, at the same time excluding the questions in dispute between the two nations, the Federal Government would have done so long ago. But things are not as simple as that. For Poland the mere renunciation of force for the securing of the future is not enough; it can help but little for the present, since Poland does not now feel herself threatened by the Federal Republic of Germany ; nor she can feel herself so threatened.

Thus, anyone who wants the German-Polish understanding must immediately concern himself with the frontier question. He cannot sidestep this core of the German-Polish relationship. Anyone who does so sidestep it must take into account that there just can be no reconciliation, that this wide field must continue to lie fallow — with all the negative consequences it can have for peace and security in Europe. However, anyone who wants to "keep open" the frontier question under all circumstances must ask himself what he hopes to achieve if force as a means of changing frontiers is excluded in every respect. Neither now nor in any foreseeable future is a peaceful changing conceivable, since the Polish side will not find itself prepared voluntarily to hand over parts of its territory, and among our allies there is not one who would be prepared to influence the Poles on these lines. However, as far as the "keeping open" as a pledge, as a means to improve one's own negotiating position, is concerned, there could perhaps years ago have been an advantage in a "clear" recognition of the Oder-Neisse Line, as might also have been possible years ago, in normalizing relations with Poland without needing to bring up the frontier question. This possibility exists no longer. Time has not worked for us. The effect of "keeping open" is merely to obstruct every attempt to improve relations with Poland on a permanent basis. It is the denial of the future, the actual "fixation" of the negative aspects of the status quo, the guarantee that in our relations with the East nothing will change. Thereby, however, our relations with the West will also be conceivably burdened by mortgages which our West European partners, with whom we are seeking closer and closer ties, would hardly be prepared to assume. There can be no doubt that our "opening" towards the East not only does not hamper West European integration but first makes its progress possible. *Vis-à-vis* the East, however, and especially *vis-à-vis* Poland, what holds good is that if we cannot change the frontiers themselves we can make them easier to cross and in the long term make them unimportant, for in the final analysis it is not a matter of frontiers but of contacts between nations.

It is falsifying the problem if the Federal Government is accused of giving up or disposing over the German eastern territories. We cannot dispose over something that has long been at the disposal of history; we cannot give up something we no longer possess. To lose one's homeland is bitter; to look on Breslau, Danzig or Deutsch-Krone as Polish cities is bitter. But if at last after 25 years we take note of existing reality, it is not we who have created that reality. The Federal Republic of Germany has to shoulder the burden of the

National Socialist legacy. No Federal Government can win the Second World War after it has taken place. For us, it can only be a matter of saying what is and seeing what can be made out of this reality and building on it.

However, this reality also includes the international, and certainly politically unique, situation in which Germany has found herself since 1945. In Germany, two States have come into being, but there is no peace settlement, and the Four Powers therefore continue to have rights and commitments with regard to Germany as a whole and to Berlin. The German States, which can speak only for themselves and, like other States, cannot act except with regard to their own existence, cannot make this peace settlement, which is still outstanding, superfluous by any action they may perform. If we say that, we do not harbour any chiliastic hopes; nor are we concerned solely with the unity of the German nation. We are thinking quite topically and quite concretely of, among other things, the links and connections that are vital for Berlin.

And for us there is yet another tie: by our signature we do not seek to legitimate injustice. No one has required of us that we thereby associate ourselves with dubious historical theories. This, too, is a reason why the word "recognition" is not to be found in the German-Polish treaty. The Federal Republic of Germany is taking up a position it is not in her power to change. On the other hand, the treaty does not encroach upon the rights of German nationals. I have had it recorded in the minutes that we can neither contemplate nor agree to this.

These considerations have resulted in the treaty concluded in Warsaw. For the Polish side, its Article I is certainly the most important. In it, the Federal Republic of Germany has unequivocally undertaken not to place in question Poland's present western frontier. However, only on behalf of herself can she make such a declaration; she cannot bind an all-German sovereign State which does not yet exist; nor do we know when it will. Therefore, Article IV of the treaty, which deals with the continuing validity of existing treaties — and thus for the Bonn Conventions also — is of special importance; and this equally applies to the exchange of Notes between the Federal Republic of Germany and the Allies in connection with Article I, of which we have officially informed the Polish Government. Article I refers to what was laid down in the Potsdam Conference in the summer of 1945 and in the conference minutes. That is the source of the line taken by the frontier. The Article gives the Potsdam decisions no other nor added significance than results from the wording of the decisions and the circumstances under which they came about. Herein lies a vital distinction between this treaty and the Görlitz treaty concluded by the German Democratic Republic in 1950.

There has been much talk about the fact that a differentiation must be made between "frontier" and "line". I cannot agree. It is understandable that Germany's complicated situation since 1945 should have led to the origination of novel and extremely subtle legal definitions, but "frontier" means a point where a passport has to be produced.

In spite of this, the frontier article is not the only — and in a certain way not even the most important — article of the treaty. It merely creates the foundation for it. The German-Polish treaty is no frontier treaty, and even as an agreement on the renunciation of force it is only incompletely described. Its actual significance is depicted appositely as "treaty concerning the basis for normalizing relations". From the very beginning, both sides were clear that it was not in the first place a question of finding a "formula", but of initiating the normalization process. To this extent the German-Polish treaty is different from that concluded in Moscow, because, apart from the fundamental importance the frontier question now assumes in the relationship between Germany and Poland, between the Soviet Union and the Federal Republic there have for a long time existed relations which have first to be developed in the relationship with Poland. For this reason the Polish treaty could not, as the Moscow treaty, start with the renunciation of force as the essential core. Rather, the renunciation of force affirmed in Article II, the declaration of faith in the principles of the statutes of the United Nations, can form only one of the three elements upholding the treaty and one of two elements which are to be decisive for the framing of the relations.

Whereas the ban on force is self-explanatory, the actual counterpart to Article I is Article III. In it, both partners to the treaty undertake to initiate certain steps to normalize their relations fully and to develop them further. The purport of the Article is to open a clear perspective to the mutual relations. That is why we did

not satisfy ourselves with the word "normalize" — with all that that implies — but we added the words "further steps" to make it clear that we visualize the development of the German-Polish relations as a process that is not to be restricted to what is "normal" between any two States.

The task assigned to the two Governments in Article III requires execution. Quite certainly it will not be fulfilled at one stroke. The "normalization process" has already begun; even the talks that led to the conclusion of the treaty form part of it, just as do the economic treaty concluded in the meantime and the current negotiations on the consular powers of the missions on both sides. In other areas too, the improved climate has already loosened the fronts which for a long time had been completely rigid between the two countries.

But when we speak of normalization we think not only of economic or cultural exchange, of youth groups and orchestras. We would not have been able to conclude this treaty had we not had sufficient evidence that the Polish side was prepared to meet us halfway in the sphere of human reliefs for us decisive.

From the outset, this complex of problems formed a main theme of the negotiations in Warsaw. In its successful mastering we see not only the crucial test of the normalization but the fundamental complementation of the treaty as a whole. Even if this finds no formal expression in the treaty itself, it nevertheless forms a vital part of the instruments concerned in the German-Polish negotiations.

This was a matter of very difficult and delicate questions, not only for us but also for the Polish side. The Federal Government has always embraced them by the term "humanitarian sphere", at the same time being aware that this was only an inadequate description.

In the Federal Republic, this complex has often been described as the preservation of the "rights of people and groups". However, the Federal Government could not expect that the Polish side, by reason of its historical experiences, would already be prepared to bestow a minority status on Germans living in Poland. It was from the standpoint of the Federal Government, too, to be remembered that the special rights of ethnic groups enjoyed by Germans in other Warsaw Pact countries are not based on such treaties and that they would certainly not have been possible had "protection" of the ethnic Germans been sought. In the negotiations it was a matter of finding pragmatic solutions by means of which the Federal Government could discharge the duties it has.

The "Information" the Polish Government has given us touches on themes of fundamental importance. It lies in the very nature of things that in it the emphasis is on the relatively easily comprehensible sphere of family reunion.

We know, however, that family reunion represents only one side of the problem and that the situation of the Germans remaining behind poses equally weighty questions. In the final analysis, both complexes are a matter of the normalization.

It would be completely false to regard the German-Polish treaty in isolation and statically. Rather, in it one must see the dynamic element contained in it, in the negotiations and in the normalization process. It is from there that the treaty gets its balance. To anyone who accuses us of luxuriating in future hopes it can be said that political treaties are always concluded only in the expectation of a particular political development and in order to promote the development and that they therefore can never be measured by the standards of a contract of sale and purchase determined by a concrete give and take.

It is said that Stalin wanted to create the Oder-Neisse Line as an eternal bone of contention between Germany and Poland. We have every reason to place this problem out of the area of controversy. With the treaty, we are inserting a fragment in the European peace order. We are aware that it is only a fragment.