25 FEB 1994

Ref: 92-FOI-2455

Mr. Laurence Chang
The National Security Archive
Suite 500
1755 Massachusetts Avenue, N.W.
Washington, D.C. 20036

Dear Mr. Chang:

This responds to your May 7, 1988, Freedom of Information Act (FOIA) request, filed with the U.S. Department of State, a portion of which was referred to the Office of the Secretary of Defense (OSD) and received in this Directorate on November 24, 1988.

We have completed our review of the 23 documents referred by the State Department, and 19 documents are releasable in full. The remaining documents are released in part, as they involve material which discusses the vulnerabilities or capabilities of systems, installations, projects or plans relating to the national security, information concerning foreign relations or foreign activities of the United States, or applies to material which is deliberative in nature, and is part of the decision making process containing subjective evaluations, opinions and recommendations. Consequently the State Department has recommended partial release of the documents and Lieutenant Colonel Edward Gray, USAF, Deputy Director for Management Operations, Ballistic Missile Defense Organization, Department of Defense, The Initial Denial Authority, has denied this information pursuant to Title 5 USC 552 (b)(1) and (5). A copy of you request and the released material is provided at the enclosure.

You have the right to administratively appeal this decision. Any such appeal should offer justification to support reversal of the denial and should be forwarded to the Office of the Assistant to the Secretary of Defense (Public

#577

Affairs), Directorate for Freedom of Information and Security Review, Room 2C757, 1400 Defense Pentagon, Washington, D.C. 20301-1400, within 60 days of the date of this letter.

Sincerely,

SIGNED

W. M. McDonald
Director
Freedom of Information
and Security Review

Enclosure:
As Stated

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P0003

VISIT OF FRG DELEGATION TO DISCUSS FRG SDI PARTICIPATION
FIRST SESSION, 5 SEPTEMBER 1985
Room 5C1042B, Pentagon

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JUNE 1985 VERSION

AUGUST 1985 VERSION

100003A

FRG DELEGATION TO SDIO

Thursday, 5 September 1985

(Government Only)

0800-0830	Welcoming Remarks by General Abrahamson (Rm 5C1042B)
0830-0900	Types of Involvement/Enabling Mechanisms - Mr. Cevasco
0900-1230	Discussion
1230-1400	Lunch
1400-1415	Technology Transfer - Col Taylor
1415-1500	Discussion
1500-1515	- Security Considerations - Mr. Fajans
1515-1600	Discussion
1600-1700	Soviet Programs

Friday, 6 September 1985

0815-1015	Systems/Architecture Studies (Rm 5C1042B)
1015-1100	Innovative Science & Technologies
1100-1200	Survivability, Lethality, Key Technologies
1200-1330	Lunch
1330-1430	Kinetic Energy
1430-1530	Sensors
1530-1630	Directed Energy
1630-1700	Travel Briefing

Friday, 13 September 1985

1400-1600	Wrap-up Session - Mr. Teltschik plus 8

P00003B

TRAVEL PLANS - FRG

The German delegation plans to use four teams to travel to various facilities where SDI work is being accomplished. The teams will be structured according to technololgical interest.

TEAM 1 - DIRECTED ENERGY

Monday, 9 Sep	AVCO Everrett/ITEK
Tuesday, 10	Sandia Livermore/Lawrence Livermore
Wednesday, 11	Lockheed Sunnyvale
Thursday, 12	Los Alamos/ AF Weapons Lab

TEAM 2 - KINETIC ENERGY

Monday, 9 Sep	General Electric, Valley Forge
Tuesday, 10	BMD
Wednesday, 11	Vought, Dallas
Thursday, 12	Hughes/TRW

TEAM 3 - OPTICS/SENSORS/RADAR

Monday, 9 Sep	MIT Lincoln Lab
Tuesday, 10	BMD
Wednesday, 11	Boeing, Seattle
Thursday, 12	Hughes/TRW

TEAM 4 - INFORMATION PROCESSING

Monday, 9 Sep	Rome Air Development Center
Tuesday, 10	Electronic System Division
Wednesday, 11	BMD
Thursday, 12	Jet Propulsion Lab

P000036

ANLAGE 1 zu Programm
SDI-Expertenkommission
in den USA vom 4. - 13.9.85

Members of Group 1 - Optics/Sensor/Radar

No.	Name	First Name	Title Function	Place of Work
1	Dr. Ruth (Head of Delegation)	Friedrich	Ambassador	Foreign Office
2	Dr. Bartram	Reiner	BDir Inter de-partmental Coordinator	Ministry of De-fense
3	Dr. Carl	Karl-Heinz	MinDirig	Ministry of Finance
4	Dr. Hoehn,	Dieter		Research Institute for Optics, Tüb
5	Fischer,	Karl	Experts for Optics Sensor & Radar	AEG/Telefunken, Ulm
6	Dr. Simon,	Karl-Heinz		Zeiß, Oberkochem
7	Dr. Wiekhorst	Friedrich		Research Ass. for applied Natural Sciences
8	Seipel	Heinz	Counselor (Science & Technology)	Em the FRG

Legend: RDir = Regierungsdirektor (equiv. LtCol)
MinDirig = Ministerialdirigent (equiv. BrigGen)

Members of Group 2 - Directed Energy Weapons:

No.	Name	First Name	Title Function	Place of Work
1	Teltschik (Head of Delegation)	Horst	MinDir	Office of the Bundeskanzler
2	Wolf	Dieter	MinDirig	Federal Ministry of [illegible]
3	Dr. Weise	Hans-Heinrich	MinR	Ministry of Defense
4	Peters,	Heribert	MinR	Ministry of Economics
5	Dr. Bohn	Willy		German Research & Testing Institute for Aeronautics & Space Flight, Köln
6	Dr. Born,	Gunthard		MBB, München
7	Dr. Hoff	Günter		Buck [illegible], Bad Reis[illegible]
8	Dr. Henze,	Gerhard	Minister-Councelor	Embassy of the FRG

Legend: MinDir = Ministerialdirektor (equiv. LtGen)
MinDirig = Ministerialdirigent (" BrigGen)
MinR = Ministerialrat (" Colonel)

Members of Group 3 - Kinetic Energy Weapons

No.	Name	First Name	Title Function	Place of Work
1	Runge, (Head of delegation)	Peter	MinDir Director, Armaments Technology	Ministry of Defense
2	Scheffer,	Wilfried	Colonel GS	Office of the Bundeskanzler
3	Prof. Dr.Ing. Schmucker	Robert		Bayer-Chemie, Ottobrunn
4	Dr. Schröder	Gustav-Adolf		Fraunhofer Institute, Freiburg
5	Dr. Homburg,	Axel		Dynamit-Nobel AG, Troisdorf
6	Meyer,	Tim Ralf		Association of the German Industry, Köln
7	Hirsch,	Hans E.	LBDir Counselor for Defense Research & Engineering	Embassy of the FRG

Legend: MinDir = Ministerialdirektor (equiv. LtGen)
LBDir = Leitender Baudirektor (equiv. Colonel)

Members of Group 4 - Information Processing

No.	Name	First Name	Title Function	Place of Work
1	Prof. Dr.Ing. Güntsch (Head of delegation)	Fritz Rudolf	MinDir	Ministry for Research & Technology)
2	Dr.Ing. Marx	Günter	MinR	dto.
3	Dr. Flad	Eberhard		Siemens AG, München
4	Dr. Dathe	Johannes		"IABG", Ottobrunn (Center for Military & Industry Related Studies)
5	Dr. Knoppik,	Norbert		Standard Electric Lorenz, Stuttgart
6	Prof. Dr. Leilich	Hans-Otto		Technical University, Braunschweig
7	Dr. Rupprecht	Hans		Fraunhofer Institute, Freiburg
8	Dr. Wittig	Thies		Krupp-Atlas Electronic, Bremen
9	Steinkopff,	Klaus	BrigGen	Defense Attaché, Embassy of the FRG

Legend: MinDir = Ministerialdirektor (equivalent to LtGen)
MinR = Ministerialrat " Col)

Pour 3D

31 August 1985

SEPTEMBER 1985 FRG VISIT ON SDI PARTICIPATION: GAME PLAN

Background

A 30-member West German team, led by Horst Teltschik of the Federal Chancellery and representing both government and industry, will be in the United States from 5-13 September 1985 to explore the potential for FRG participation in SDI research. A list of delegation members is at TAB A.

The team will meet with us in Washington on 5-6 September and then tour various SDI research facilities in four separate groups (as indicated in the delegation list at TAB A) until 12 September. The session on 5 September -- limited to government representatives only -- will consider policy questions, while the one on 6 September will be devoted to SDI programmatic issues. The schedule for the 5-6 September sessions is at TAB B.

On the 13th, seven government members of the delegation (Teltschik, Ruth, Weise, Wolf, Carl, Scheffer, and Marx) will return to Washington for afternoon wrap-up discussions (scheduled by the FRG to last two hours). The seven include two representatives from the FRG Chancellery, and one each from the Foreign Office and the Ministries of Defense, Economic, Finance, and Research and Technology.

[redacted]

West German Concerns

The basic U.S. objective for this meeting, as for exchanges with other allies on the subject, is to bring the FRG as as possible to agreement on actual research involvement. inter-ministerial delegation to Washington which Teltschik led in June presented several major questions regarding the terms and conditions of FRG participation in SDI research, and indicated that the team coming in September would want to discuss those questions in detail. In mid-August, the FRG transmitted to us a revised and expanded list of questions. Although the two lists overlap heavily, there are some differences; we have therefore prepared responses to both sets (at TAB C).

Our answers to these questions will have a major impact on the FRG's response to our invitation to participate in SDI research.

The questions demonstrate that the Federal Republic shares many of the concerns previously expressed by the United Kingdom. In general, it wants to maximize its involvement in all phases of the SDI research program, its access to SDI information, and its ability to use research results for commercial purposes. Several FRG officials have informally suggested that a framework agreement covering all of West German SDI research participation would be necessary to meet their concerns. While there is a strong possibility that the FRG will insist on a framework agreement, it has not yet done so officially, nor has it indicated whether it would want any such accord to precede final agreement on project-specific contracts or memoranda of agreement. In addition, although the West German government has made clear that it wants a substantial, broad-ranging role in SDI research, it has not made any specific proposals about the desired scope of West German participation.

The U.S. Approach

The United States should present our proposed "Pathfinder approach" -- agreement on initial, but significant, specific FRG research efforts that can provide the foundation for progressively broader activities -- at the outset of the discussions on 5 September. We would discuss the Pathfinder proposals in more detail during the meeting on 6 September which will cover programmatic issues. SDIO "Pathfinder" proposals for the FRG are at TAB D.

The U.S. presentations for the balance of the meeting of 5 September, as indicated in the schedule at TAB B, would address the issues raised in the Teltschik questions. [redacted]

[redacted]

Wrap-Up Session

There is a good chance that the FRG delegation will not be prepared to provide specific research project proposals at the meeting on 13 September. Only seven members of the 30-member delegation (in addition to two embassy officers) will be present, and none of the industrialists will be included. Moreover, the FRG delegation initially did not plan to hold any meetings with us after its tours of SDI research facilities, and has agreed only to a two-hour wrap-up session. On the other hand, the German representatives at the 13 September meeting will include participants in each of the four SDI research facilities tours (directed energy, kinetic energy, optics/sensors/radar, and information processing).

In any case, we should try to make as much progress as possible at this meeting toward active FRG participation in SDI research, and impress on the FRG that we want to move forward quickly. If the FRG wants to conclude a framework agreement, we should suggest the formation of a joint working group to draft both that document and specific research project proposals. If it does not require a framework accord, we should instead offer to submit draft project-specific memoranda of agreement to the FRG by a certain date (e.g., 1 October).

The two highest-ranking members of the FRG delegation, Teltschik and Ruth, will attend the 13 September meeting. The United States should therefore be represented by senior-level participants from the SDIO, OSD Policy, the NSC, ACDA, and the State Department. In addition, we may want to arrange individual meetings between Teltschik and senior U.S. officials on 5-6 or 13 September.

Public Handling

The upcoming FRG visit has received considerable press attention in West Germany. West German media representatives have already approached the SDIO with both queries about the meeting and requests for photo opportunities. The FRG Embassy has asked for fairly detailed press guidance, and its internal schedule for the delegation mentions reserving an Embassy conference room on 13 September for a "possible press conference".

[redacted]

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5-13 SEPTEMBER FRG VISIT ON SDI PARTICIPATION: BASIC U.S. OBJECTIVES AND THEMES

Objectives

A 30-member West German team, led by Horst Teltschik of the Federal Chancellery and representing both government and industry, will be in the United States 5-13 September 1985 to explore the potential for FRG participation in SDI research. The basic U.S. objective for this visit is to bring the FRG as close as possible to agreement on actual research involvement. In June, Teltschik provided us with several questions regarding the terms and conditions of FRG participation in SDI research. Our answers to those questions -- which will be the focus of the 5 September meeting -- will have a major impact on the FRG's response to our i[illegible]n to participate in SDI research. In addition, we hope to persuade the FRG to accept our proposed "Pathfinder" approach to the initiation of allied research involvement: agreement on initial, but significant, specific FRG research efforts that can provide the foundation for progressively broader activities.

Basic Themes

Pathfinder Approach:

-- We look forward to the broadest possible FRG participation in SDI research, with the maximum free flow of information possible within appropriate and necessary legal, security, and [illegible]tion exchange and use policy limitations.

-- The United States has identified several possible areas for FRG SDI research activities. We look forward to hearing the FRG's ideas for specific research projects.

-- We hope that the two sides can identify as quickly as possible specific, mutually acceptable projects for FRG research, and agree on the appropriate project requirements -- regarding security, information exchange, rights of use for other applications, etc. -- for each.

Mechanism for FRG Participation:

-- The SDIO could contract directly with German firms on a sole source or competitive basis, as appropriate. SDIO might also, consistent with U.S. laws and regulations, contract with the FRG government, which could in turn subcontract with FRG firms or research institutions. In addition, the U.S. and FRG governments could establish jointly-financed cooperative research projects.

-- The United States therefore envisions an FRG role in SDI research going well beyond sub-contracts. Nevertheless, sub-contracts

with U.S. prime contractors would be one possible further vehicle for FRG involvement which could benefit both the FRG and the research program.

Rights to Research Results:

-- Each party would be able to use information or products developed under a jointly-financed cooperative research project for its own military forces without restriction. Arrangements for other uses, e.g., for commercial purposes, would be mutually agreed for each project. Use of results from research projects entirely funded by the United States would be subject to U.S. approval.

Possibility of Commercial and Military Spinoffs:

-- We expect both military and commercial spinoffs from this large research effort. The latter would depend in part on the type and sensitivity of the research effort. In addition, we would both have to take the necessary steps to prevent the unauthorized transfer of SDI technology to the Soviet Union and its allies.

-- The nature of this research effort -- like other high-techology research programs -- makes it very difficult to predict the extent and nature of eventual spinoffs.

-- We would make every effort, consistent with the mutual security interests, laws and policies of the United States and the FRG, to permit the results of unclassified joint cooperative research projects in SDI technologies to be used in non-military applications in the two countries.

Rights to Research Information in Areas in Which the FRG Does Not Participate:

-- We will continue to inform the FRG and other allies in detail on the progress of the SDI research program as a whole. We would not be able, however, to share freely with the FRG all the information developed from SDI activities in which the FRG does not participate.

  -- The ABM Treaty places limits on the amount and type of SDI information which we may share with other countries. SDI research data may not be shared if that information sharing would be for the purpose of and result in providing technical descriptions or blueprints specially worked out for the construction of ABM systems or their components.

  -- In addition, our research contracts/memoranda of agreement with other firms and governments -- in the SDI just as in other areas -- protect their rights to background information and research results, and therefore restrict the extent to which we could transmit that information to third parties. The same protection would of course be extended to FRG government and industry regarding their SDI research activities.

Rights to Background Information

-- Each government would recognize and protect background information provided by the other government or its contractors that was generated outside of the particular research effort. The recipient of that information could not use it for any other purpose without the permission of the owner.

Security Classification

-- Much of the SDI research is unclassified. Security requirements would be specified and agreed in advance for each research project.

-- The U.S. government would have final classification authority, although such questions may be discussed with the contractor.

Contingency Talking Points:

If the FRG calls for a framework agreement that would provide a comprehensive basis for FRG participation:

-- We would be prepared to work expeditiously to develop a framework agreement that would provide a comprehensive basis for the fullest possible German participation in SDI research.

-- But we should also proceed immediately to identify specific, mutually acceptable projects for FRG research, and to agree on the specific project requirements for each.

-- We believe that we should not delay any contracts on which we might agree pending the completion of an overarching agreement. Furthermore, work on specific project requirements would provide an invaluable guide to our preparation of a framework agreement, helping us to define through specific substantive reference points the necessary and mutually acceptable provisions of an overarching accord.

If the FRG calls for a multiyear U.S. financial commitment to a given level of FRG research:

-- The United States is of course committed to a substantial role for the FRG over the life of the SDI research program. But we do not believe that we should establish any floor or ceiling for German participation. It would, for example, cause us severe problems with the Congress if we attempted to tie the SDI program to explicit prior commitments on the dollar or percentage value of allied SDI cooperation.

-- In addition, as a research program, the SDI is exploring various promising areas. We cannot be certain now which we will continue at the same level later in the program, which we will cut back, and which we might abandon altogether.

If the FRG calls for an unrealistically high dollar figure for FRG SDI research:

-- We are committed to ensuring a significant West German role in SDI research -- significant in terms of the program itself, of its benefit to West German security interests, and potentially of military and commercial spinoffs.

-- However, I must remind you of the limited total size of the SDI program, and of our inability to predict annual Congressional authorizations. Moreover, Congress has imposed various limitations on our ability to let research contracts abroad.

-- It is important to remember that the SDI is a research program. As we repeatedly stress to U.S. audiences, it is far too limited to be a jobs creation or economic stimulus program.

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[redacted]

OPENING REMARKS

-- I am pleased to welcome you here today for what I believe will be a productive and fruitful discussion today and tomorrow. We are also looking forward to our discussion on the 13th with several of you, after your tours of SDI research facilities.

-- We have carefully examined the questions regarding the terms and conditions of German participation in SDI research which Minister Teltschik discussed with us in June, and which you transmitted to us in a somewhat more detailed version last month.

-- Our presentations and discussions here today will cover all those issues which you have noted to be of particular interest to you.

-- The United States looks forward to the broadest possible German participation in SDI research, with the maximum free flow of information possible within appropriate and necessary legal, security, and technology transfer limitations.

-- We hope that the two sides can identify as quickly as possible specific, mutually acceptable projects for German SDI research, and agree on the appropriate terms and conditions -- regarding security classification, information exchange, rights of use for other applications, etc. -- for each.

-- We will discuss potential research project areas in which the FRG might participate in more detail tomorrow, and I hope in still more detail after you return from your tours of various SDI research facilities here in the United States.

-- Nevertheless, I would like to discuss with you some of our ideas for possible initial German research projects, in order to provide some substantive reference points for our discussion of terms and conditions today.

-- We propose what I call a "Pathfinder" approach to the initiation of active German involvement in SDI research: agreement on initial, but significant, specific research efforts that can provide the foundation for progressively broader activities. We have identified the following potential areas for such "Pathfinder" projects:

-- Laser imaging;

-- Cryogenic infrared measurements;

-- Platinum Silicide infrared detectors;

-- Rapid Optical Fabrication Technology (ROFT);

[redacted]

-- High quality quartz for ROFT;

-- Accelerator research (particle beam weapons);

-- Electromagnetic gun mechanisms and power sources;

-- Lethality and target hardening;

-- An MOD Integrated SDI Architectural Trade-Off Study (concentrating on the European threat and designed to fit into Phase II of the U.S. architectural studies).

-- These proposals cover a broad range of important SDI program areas. I would expect that subsequent discussions among technical experts of both sides would modify and/or expand this list. We look forward to hearing your ideas for research project areas in which you might participate.

Public Handling

-- There is of course a high degree of public interest in both our countries in the SDI and the question of allied participation in SDI research. In view of that interest, I hope that we will be able to coordinate closely on the public handling of our meetings this week and next. We have already done so with your Embassy in preparing contingency press guidance for responding to possible public inquiries.

-- I would ask that we each appoint a member of our group to work out details on public handling on the margins of this meeting. I would suggest Steven Steiner from the NSC Staff would be the one from the U.S. side.

Paper for Allies on ABM Treaty and Cooperative SDI Research

-- The United States is of course conducting the SDI program in full compliance with the ABM Treaty. At the request of the FRG and other allies, we have prepared a paper which outlines the impact of the ABM Treaty on allied participation in SDI research. I would like to give you that paper now. We are also providing it to the other governments invited to participate in the SDI research program.

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PATHFINDER -- "WEGFUEHRER" -- PROPOSAL

- -- Laser Imaging
- -- Cryogenic Infrared Measurements
- -- Platinum Silicide Infrared Detectors
- -- Rapid Optical Fabrication Technology (ROFT)
- -- High Quality Quartz for ROFT
- -- Accelerator Research (Particle Beam Weapon)
- -- Electromagnetic Gun Mechanisms and Power Source
- -- Lethality and Target Hardening
- -- SDI Architectural Trade-Off Study -- Concentrating on European Threat

[redacted]

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A PATHFINDER PROPOSAL (FRG)

To assist in initial project definition and execution, an SDI FRG Pathfinder Project has been defined. In the project, U.S. and FRG technical experts will examine several potential technical cooperative efforts, including the specific research areas below:

- Laser imaging
- Cryogenic infrared measurements
- Platinum Silicide infrared detectors
- Rapid Optical Fabrication Technology (ROFT)
- High quality quartz for ROFT
- Accelerator research (particle beam weapon)
- Electromagnetic gun mechanisms and power sources
- Lethality and target hardening
- An MOD Integrated SDI Architectural Trade-Off Study (concentrating on the European threat and designed to fit into Phase II of the U.S. architectural studies)

These are technical areas identified by U.S. experts as possible areas for cooperation. The anticipated U.S.-FRG technical dialogue to follow might modify these areas or identify others which are unrelated.

The procedure for these Pathfinder efforts will be to allow project experts to examine the details of possible cooperative efforts. If technically appropriate, technical and contract experts would then put final definition to a statement of work and the specific project requirements for security, information exchange, information transfer, rights of use for other applications, etc. These will be incorporated into a project Memorandum of Agreement (MOA) for each research project. During this definition period, the United States will ensure that each specific effort meets the requirements of U.S. law and regulations and international obligations. When these elements are finalized, direction and funding will be provided so that each project can be started as expeditiously as possible.

The principles of which these individual MOAs are structured will be to provide a meaningful participation effort, with the maximum free flow of information possible within appropriate legal, security and technology transfer limitations. The participative effort will be consistent with the provisions of the Anti-Ballistic Missile Treaty of 1972.

[redacted]

P0000 3I

ABM TREATY AND COOPERATIVE SDI RESEARCH

ABM Treaty Considerations

The US is conducting the SDI program consistent with our ABM Treaty obligations. The unclassified 1985 SDI Report to the Congress, Appendix B, provides a detailed explanation of US Treaty obligations and the SDI Projects. US ABM Treaty obligations directly related to cooperative research efforts are contained in the following two provisions:

Article IX

> "To assure the viability and effectiveness of this Treaty, each Party undertakes not to transfer to other States, and not to deploy outside its national territory, ABM systems or their components limited by this Treaty."

Agreed Statement G

> "The Parties understand that Article IX of the Treaty includes the obligation of the US and the USSR not to provide to other States technical descriptions or blueprints specially worked out for the construction of ABM systems and their components limited by the Treaty."

ABM systems and their components limited by the Treaty are defined by Article II as follows:

> "1. For the purpose of this Treaty an ABM system is a system to counter strategic ballistic missiles or their elements in flight trajectory, currently consisting of:
> (a) ABM interceptor missiles, which are interceptor missiles constructed and deployed for an ABM role, or of a type tested in an ABM mode;
> (b) ABM launchers, which are launchers constructed and deployed for launching ABM interceptor missiles; and
> (c) ABM radars, which are radars constructed and deployed for an ABM role, or of a type tested in an ABM mode.
> 2. The ABM system components listed in paragraph 1 of this Article include those which are:
> (a) operational;
> (b) under construction;
> (c) undergoing testing;
> (d) undergoing overhaul, repair, or conversion; or
> (e) mothballed."

The following Agreed Statement addresses ABM components based on new technology:

> "In order to insure fulfillment of the obligation not to deploy ABM systems and their components except as provided in Article III of the Treaty, the Parties agree that in the event ABM systems based on other physical principles and including components capable of substituting for ABM interceptor missiles, ABM launchers, or ABM radars are created in the future, specific limitations on such systems and their components would be subject to discussion in accordance with Article XIII and agreement in accordance with Article XIV of the Treaty."

The United States will continue to adhere to its international obligations, including the ABM Traty, while participating in cooperative research activities. The US policy underlying cooperative SDI research is as follows:

> Because our security is inextricably linked to that of our friends and allies, the SDI program will not confine itself solely to an exploitation of technologies with potential against ICBMs and SLBMs, but will also carefully examine technologies with potential against shorter range (non-strategic) ballistic missiles.
> Over the next several years, we will work closely with our allies to ensure that, in the event of any future decision to deploy defensive systems (a decision in which consultation with our allies will play an important part), allied, as well as United States, security against aggression would be enhanced.
> Moreover, the United States will, consistent with our existing international obligations including the ABM Treaty, proceed with cooperative research with the allies in areas of technology that could contribute to the SDI research program.
> Pursuant to this policy, the United States is permitted -- and is prepared -- to undertake such cooperative programs on data and technology short of ABM component level as may be mutually agreed with allied countries.
> The United States, however, will not seek to arrange for the allies to do for us what we ourselves cannot do under the Treaty. Of course, exchanges with our allies concerning defensive systems not covered by the ABM Treaty can continue as desired by the United States and its allies.

SDI research has not reached a point where ABM Treaty constraints have appreciable impact on cooperative research and information exchanges. However, where the development or testing of an ABM component has been achieved -- such as with the recently-conducted

Homing Overlay Experiment (HOE) -- existing technical descriptions or blueprints for the construction of such ABM components cannot be exchanged. The same prohibition will apply to planned projects, such as the High Endoatmospheric Defense Interceptor (HEDI) and the Exoatmospheric Reentry-Vehicle (RV) Interceptor Subsystem (ERIS), which will develop and test fixed land-based ABM components.

Guidelines for Cooperation

All cooperative SDI research agreements will include a statement that they will be implemented in a manner consistent with US international obligations including the ABM Treaty.

To ensure that all exchanges of data and cooperative research ventures are conducted in compliance with US obligations under the ABM Treaty, guidelines have been established for the use of US agencies responsible for conducting such activities. Any proposed data exchange or cooperative research effort which could reasonably raise a question as to compliance with the guidelines will not be implemented without prior US review and approval. For example, any device, regardless of the technology used, which could reasonably raise a question as to whether it could substitute for a current ABM component (launcher, interceptor missile, and radar) would be subject to this procedure.

The specific guidelines governing US cooperative SDI research activities are outlined below:

1. The US will not transfer to other States ABM systems or their components limited by the Treaty.

2. SDI research data will be shared and cooperative research will be conducted only if the cooperative effort is not for the purpose of and would not result in providing technical descriptions or blueprints specially worked out for the construction of ABM systems or their components. Consistent with the foregoing, the US can engage in data exchanges and cooperative research regarding subcomponents or parts of ABM components and other devices which are not ABM components.

3. Cooperating governments and industries will not be asked to conduct activities that the United States itself is prohibited from conducting under its Treaty obligations.

4. The ABM Treaty limits defenses against strategic ballistc missiles; it does not limit defenses against cruise missiles or non-strategic ballistic missiles. However, the ABM Treaty prohibits giving missiles, launchhers, or radars other than ABM interceptor missiles, ABM launchers, or ABM radars capabilities to counter strategic ballistic missiles. Transfers of non-ABM-related technical data or hardware which could reasonably raise a question of ABM capability will be subject to the aforementioned prior review and approval procedure.

5. Private foreign companies may actively participate in research activities and device fabrication consistent with these guidelines and as permitted by existing government-to-government agreements.

6. The transfer of independently generated data or technology

to the United States, even if ABM-related, is not restricted by the ABM Treaty.

7. The overall level of cooperative effort with each country will be subject to continuing review for compliance with US obligations under the ABM Treaty.

It should be noted that Agreed Statement D on new technologies provides that the question of specific lilitations on ABM systems "based on other physical principles" remains subject to future discussion and agreement by the parties to the ABM Treaty.

[redacted]

P00003J

TYPES OF INVOLVEMENT/ENABLING MECHANISMS

TALKING POINTS

-- The United States and the Federal Republic of Germany have completed a wealth of agreements providing for exchange of classified information and joint research on weapons systems.

  -- Several of those agreements, such as the 1960 General Security of Information Agreement and the 1970 Industrial Security Agreement of 1970, will be directly applicable to SDI research.

  -- Others will be applicable in part or with modification.

  -- Still others, while not directly applicable, provide a broad background of experience which would greatly facilitate the conclusion of new contracts or agreements on jointly-funded cooperative research projects in the SDI area.

  -- We propose to build and draw upon these existing agreements, as appropriate, in arranging for FRG participation in SDI research.

-- There are a variety of possible mechanisms through which we could institute active FRG involvement in the research program.

  -- The Strategic Defense Initiative Organization (SDIO), working within existing security arrangements and agreements, could contract directly with West German industry, universities and research institutions, on a sole source or competitive basis, as appropriate.

  -- Additionally, SDIO may, consistent with U.S. laws and regulations, contract with the FRG government, which could in turn subcontract with FRG firms or research institutions.

  -- The United States and FRG governments could also establish jointly-financed cooperative research projects.

  -- The United States thus envisions an FRG role in SDI research which would go well beyond that of sub-contractor. Nevertheless, sub-contracts with U.S. prime contractors would be an additional possible vehicle for FRG involvement which could benefit both the FRG and the research program.

-- The desirability of one or more of these mechanisms will vary according to the specific research area involved: e.g., whether an FRG firm or research institute has a unique capability that makes it eligible for sole source contracts; whether the relevant work is being carried on in government laboratories or private firms in the FRG; whether ongoing research in both countries lends itself to jointly-funded cooperative projects.

[redacted]

-- All other things being equal, jointly-funded cooperative research projects might be a particularly attractive vehicle for the initiation of much FRG SDI research activity. Such projects would not be subject to many of our legal constraints on contracting abroad. In addition, as we will discuss later, arrangements regarding rights to use research results for other purposes may be worked out under this type of agreement which would be particularly favorable to the FRG.

-- SDIO or its agent would make available to FRG contractors the technical data and information needed for full participation in agreed cooperative programs and contracts, consistent with U.S. laws and regulations, and international obligations including the ABM Treaty, and subject to privately-owned proprietary rights. The U.S. Federal Acquisitions Regulation (FAR) provides guidance for the award of DOD contracts, including the information required to support the price paid for a particular good or service.

-- Each government would recognize and protect background information provided by the other government or its contractors. By "background information", we mean the technical data necessary to or useful in the research effort, but generated before or outside the particular research project, whether by government establishments, contractors at private expense, or government contractors at government expense. The recipient of that information could not use it for any other purpose without the authorization of the owner. Participation in an SDI project itself would not affect the originator's ownership of that information, or his freedom to use it.

-- Proprietary information would be subject to the rights of the owner and such rights of use as may be obtained for each party. The recipient of such information wouuld have to obtain the approval of the owner before its use for other purposes.

-- The SDIO would normally be the point of contact on the U.S. side regarding FRG participation in SDI research. Other USG organizations, however, might be designated as the points of contact for specific research projects, depending on the project involved.

-- The choice of an enabling mechanism -- just as of particular research projects -- would be arrived at by mutual agreement, depending on areas of German technological strength and interest and SDI research requirements. An essential element of participation is that each contract or cooperative research project stand on its own technological merit, to the benefit of both the FRG and the SDI research program.

Contingency Talking Points:

If the FRG delegation inquires into the possibility of an overarching, or framework, agreement that would provide a comprehensive basis for FRG participation:

-- We would be prepared to work expeditiously to develop a framework agreement that would provide a comprehensive basis for the fullest possible German participation in SDI research.

  -- Such an agreement could take a variety of forms, such as an exchange of letters or an overarching Memorandum of Understanding with project-specific Memoranda of Agreement at annex.

-- While we are prepared to begin work right away on such a framework agreement, we believe that we should also proceed immediately to identify specific, mutually acceptable projects for FRG research, and to agree on the specific project requirements for each.

-- We believe that we should not delay any contracts on which we might agree pending the completion of an overarching agreement. Furthermore, work on specific project requirements would provide an invaluable guide to our preparation of a framework agreement, helping us to define through specific substantive reference points the necessary and mutually acceptable provisions of an overarching accord.

FRG 1

German response -

Runge - in past always understood that each part shared the cost. But now it is doing the funding - what are implications of this for eg property rights + technology sharing.

"Could FRG industry take our responsibility for a major system or sub-system?" - Abe: yes

"Are you ready to coop not only on specific technologies but on actual sub-systems?" eg portion of target acquisition, kill mechanism etc (FRG would later want to incorporate a opply there into its own use + weapons development)

FRG Sir Irwin - do you want FRG financial contributions, joint funding?

Ruth - are there identifiable, coherent programs eg; SDI which are isolated

EXISTING BILATERAL AGREEMENTS

- -- MASTER MUTUAL WEAPONS DEVELOPMENT DATA EXCHANGE AGREEMENT
  - -- APPROXIMATELY 100 DATA EXCHANGE ANNEXES
- -- MEMORANDUM OF UNDERSTANDING OF PRINCIPLES GOVERNING MUTUAL COOPERATION IN THE RESEARCH, DEVELOPMENT, PRODUCTION, PROCUREMENT AND LOGISTIC SUPPORT OF DEFENSE EQUIPMENT
- -- GENERAL SECURITY OF INFORMATION AGREEMENT
- -- OPERATING PROCEDURES FOR IMPLEMENTATION REGARDING INDUSTRIAL SECURITY
- -- PROJECT-SPECIFIC MEMORANDA OF UNDERSTANDING ON JOINT RESEARCH PROJECTS

ENABLING MECHANISMS

- -- CONTRACT DIRECTLY WITH INDUSTRY, UNIVERSITIES, AND INSTITUTES
- -- CONTRACT WITH FRG GOVERNMENT, WHICH WOULD SUB-CONTRACT WITH INDUSTRY, UNIVERSITIES, AND INSTITUTES
- -- COOPERATIVE JOINTLY-FINANCED RESEARCH PROJECTS
- -- U.S. PRIME CONTRACTORS SUB-CONTRACT WITH FRG INDUSTRY, UNIVERSITIES, AND INSTITUTES

INFORMATION EXCHANGE

-- SDIO TO PROVIDE INFORMATION NECESSARY TO BID ON AND PERFORM CONTRACTS

-- PROTECTION OF BACKGROUND INFORMATION

-- PROTECTION OF PROPRIETARY INFORMATION

BASIS OF DECISION ON PROJECTS AND ENABLING MECHANISMS

-- MUTUAL AGREEMENT, DEPENDING ON:

  -- AREAS OF GERMAN TECHNOLOGICAL STRENGTH AND INTEREST

  -- SDI RESEARCH REQUIREMENTS

-- PROJECTS TO STAND ON TECHNOLOGICAL MERIT, TO BENEFIT OF BOTH FRG AND THE SDI RESEARCH PROGRAM

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TYPES OF INVOLVEMENT/ENABLING MECHANISMS

FRG QUESTIONS

June 1985 Version:

Q. How does the United States envisage the organization or mechanisms that would allow the FRG to derive benefits from and at the same time advance the SDI program?

A. The United States looks forward to the broadest possible participation by the FRG in SDI research -- using a variety of mechanisms -- which would be of substantial benefit both to the FRG and the SDI research effort. An essential element of participation is that each contract or joint program stand on its own technological merit, to the benefit of both the FRG and the SDI research program.

Q. Can the U.S. describe in detail the forms of cooperation that would apply to the FRG?

A. Many potential forms of cooperation exist for FRG involvement in SDI research. However, until more specific areas are identified, it is impracticable to attempt to describe which ones would be utilized for each research project. These will be considered on a case-by-case basis, depending up the type and scope of the particular involvement.

Presently, there is an extensive array of cooperative arrangements between the FRG and the United States which is representative of the methods which could be considered for SDI involvement. These include information exchange programs, joint ventures, and award of DoD contracts to universities and industries for research and development. Essentially, potential methods of FRG participation in cooperative SDI research include: standard competitive bidding for direct contracts and sub-contracts; if a unique capability exists, direct sole-source contracting arrangements with government laboratories, private firms and universities; and cooperative research programs pursuant to a government-to-government agreement.

There are a number of enabling mechanisms already in force between the FRG and the United States which could apply to SDI cooperative research in whole or in part or with modification. Among these are Data Exchange Agreements which cover approximately 100 specific exchange projects with the FRG. There also is the Memorandum of Understanding of Principals Governing Mutual Cooperation in the Research and Development, Production, Procurement and Logistic Support of Defense Equipment which commits the FRG and the United States to open their defense markets to each other.

There are also many project-specific Memoranda of Understanding. We propose to build on and draw upon these existing arrangements, as appropriate.

Q. Will the FRG be able to get out of the sub-contractor role? Will the FRG have access to the result of overall SDI projects? Will the FRG be expected to contribute to only specific areas but not profit from the overall results?

A. While sub-contracts with U.S. prime contractors would be one possible vehicle for FRG involvement in SDI research which could be of benefit to both the FRG and the research program, the United States envisions an FRG role in SDI research going well beyond sub-contracts. The Strategic Defense Initiative Organization (SDIO), working within existing security arrangements and agreements, could contract directly with German commercial industry or research institutions, on a sole source or competitive basis, as appropriate. Additionally, SDIO may, consistent with U.S. laws and regulations, contract with the FRG government, which could in turn sub-contract with FRG firms or research institutions. There also may be areas in which the U.S. and FRG governments might wish to establish jointly-financed cooperative research projects.

We hope for the broadest possible FRG participation in the SDI research program, spanning its major elements. In addition, we will continue to inform the FRG and other allies in detail on the progress of the research program as a whole. Finally, as we have repeatedly stressed, the purpose of the SDI is to enhance allied as well as U.S. security. In all those respects, the FRG will have access to -- and can expect to profit from -- the overall results of the SDI program.

However, we would not be able to share freely with the FRG all the information developed from SDI activities in which the FRG does not participate. The ABM Treaty, of course, places limits on the amount and type of SDI information which we may share with other countries. Thus, SDI research data may not be shared if that information sharing would be for the purpose of and result in providing technical descriptions or blueprints specially worked out for the construction of ABM systems or their components. In addition, our research contracts/agreements with other firms or governments -- in the SDI just as in other areas -- protect their rights to background information and information developed as a result of their research activities, and therefore restrict the extent to which we could transmit that information to third parties. The same protection would of course be extended to FRG government and industry regarding their SDI research activities.

August 1985 Version:

A. Type and Extent of a Possible German Participation

Q. Assumption of coherent tasks up to and including subordinate systems?

A. The United States looks forward to the fullest possible FRG participation in SDI research, which would be of significannt benefit both to the research program and to the FRG. FRG research projects could be agreed that separately or together amount to a coherent task, within the limits set by U.S. law and treaty obligations, including the ABM Treaty.

Under that Treaty, the United States can engage in data exchanges and cooperative research regarding subcomponents or parts of ABM components and other devices which are not ABM components. The United States may not, however, transfer to other States ABM systems or their components limited by the Treaty. Moreover, SDI research data will be shared and cooperative research conducted only if the cooperative effort is not for the purpose of and would not result in providing technical descriptions or blueprints specially worked out for the construction of ABM systems or their components. The overall level of cooperative effort with each country will be subject to continuing review for compliance with U.S. obligations under the ABM Treaty.

Q. Procedure used by SDIO in the awarding of contracts to German contractors?

A. Essentially, German participation in the SDI program may be based on one or more of the following procedures: cooperative research programs agreed in a government-to-government Memorandum of Agreement; direct U.S. government contracts to a German contractor or team of contractors, on a sole source or competitive bidding basis, as appropriate; sub-contracts with a U.S. prime contractor. Contracts could be let with German commercial industry or research institutions, or with the FRG government which could in turn sub-contract with FRG firms or research institutions. The U.S. government will follow the applicable U.S. laws and regulations in awarding contracts to German contractors.

B. Contract Awarding, Price Development, Price Review

Q. Provision of all information necessary for the bidding for and handling of contracts? Legal basis for price development and price review?

A. The SDIO or its agent would make available to FRG contractors the technical data needed for full participation in

contracts and agreed cooperative programs, consistent with U.S. laws and regulations, and international obligations including the ABM Treaty, and subject to privately-owned proprietary rights. The U.S. Federal Acquisitions Regulation (FAR) provides guidance for the award of DoD contracts, including the information required to support the price paid for a particular good or service.

Q. Naming of central points of contact on both sides?

A. The SDIO would normally be the point of contact on the U.S. side regarding FRG participation in SDI research. Other organizations, however, might be designated as the points of contact for specific research projects, depending on the project involved.

D. Users' Rights and Exploitation Rights

Q. Equal status of German contractors in regard to property and users' rights of research results (most-favored-nation treatment)?

A. Each party would be able to use foreground information developed under a jointly-financed research project for its own military forces without restriction. Arrangements regarding other uses, e.g., for commercial purposes or transfer of the information or products containing such information to third parties, would be mutually agreed for each project. Every effort would be made, consistent with the mutual security interests, laws and policies of the United States and the Federal Republic, to permit the results of unclassified joint cooperative research projects in SDI technologies to be used in non-military applications in the two countries.

Exchange and use of foreground information resulting from research projects entirely funded by the United States would be subject to U.S. approval.

Both parties would have to agree to take all necessary and appropriate steps to prevent the unauthorized transfer of SDI technology to the Soviet Union, its allies, and the other COCOM-proscribed destinations.

Proprietary information would be subject to the rights of the owner and such rights of use as may be obtained for each party. The recipient of such information would have to obtain the approval of the provided before its sale or transfer to a third party.

Q. Retention with the contractor of those rights which originated before the conclusion of the research contract.

A. Each government would recognize and protect background

information provided by the other government or its contractors. By "background information", we mean the technical data necessary to or useful in the research effort, but generated before or outside of the particular research project, whether by government establishments, contractors at private expense, or government contractors at government expense. The recipient of that information would not be able to use it for any other purpose without the authorization of the owner. Participation in an SDI project would not affect the originator's ownership of or freedom to use it as he saw fit.

TECHNOLOGY TRANSFER

-- FOUR BASIC ISSUES:

  -- PREVENTION OF TRANSFER OF SDI TECHNOLOGY TO SOVIET UNION AND ALLIES

  -- POTENTIAL FOR MILITARY AND CIVILIAN SPINOFFS

  -- USE OF RESEARCH RESULTS FOR OTHER PURPOSES

  -- INFORMATION ON SDI RESEARCH AS A WHOLE

INFORMATION ON SDI RESEARCH AS A WHOLE

- -- UNITED STATES WILL CONTINUE TO BRIEF ALLIES IN DETAIL ON PROGRESS OF RESEARCH PROGRAM
- -- LIMITATIONS ON INFORMATION SHARING:
  - -- ABM TREATY
  - -- RESEARCH CONTRACTS AND AGREEMENTS WITH OTHER GOVERNMENTS AND FIRMS

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TECHNOLOGY TRANSFER

FRG QUESTIONS

June 1985 Version:

Q. The U.S. has stringent regulations regarding data exchange; the FRG has had experiences where people who had cooperated on a joint project with the U.S. were later not allowed to know the results of that work. Could the same circumstances occur with SDI cooperation? Will the allies be limited to a very narrow line of exchange?

A. The United States looks forward to the broadest possible allied participation in SDI research. SDIO or its agent would make available to FRg contractors the technical data needed for full participation in agreed cooperative programs and contracts, consistent with U.S. laws and regulations, and international obligations including the ABM Treaty, and subject to privately-owned proporietary rights.

Each government would recognize and protect background information provided by the other government or its contractors. By "background information", we mean the technical data necessary to or useful in the research effort, but generated before or outside the particular research project, whether by government establishments, contractors at private expense, or government contractors at government expense. The recipient of that information could not use it for any other purpose without the authorization of the owner. Participation in an SDI project would not affect the originator's ownership of that information, or his freedom to use it as he saw fit.

Each party would be able to use foreground information developed under a jointly-financed cooperative research project for its own military forces without restriction. By "foreground information" we mean technical information generated in the course of or under the research project, including any invention or discovery which is conceived or first actually reduced to practice in the course of or under the research project. Arrangements regarding other uses of such information, e.g., for commercial purposes or transfer to third parties, would be mutually agreed for each project. Every effort would be made, consistent with the mutual security interests, laws and policies of the United States and the Federal Republic, to permit the results of unclassified joint cooperative research projects in SDI technologies to be used in non-military applications in the two countries.

Exchange and use of foreground information resulting from research projects funded solely by the United States would be subject to U.S. approval.

Q. How will the FRG be able to take the results of collaborative SDI research and bring them to commercialization?

A. We certainly expect commercial spinoffs from this large research effort. Those will depend in part on the type and sensitivity of the research. In addition, both parties would have to agree to take all necessary and appropriate steps to prevent the unauthorized retransfer of SDI technology to the Soviet Union, its allies, and the other COCOM-proscribed destinations.

While we expect commercial spinoffs from SDI research, it is important to bear in mind that the purpose of the program is to determine the feasibility of developing a defense system, not commercial technology. The experience of several allied countries, including the FRG and the United States, with other high technology research programs clearly demonstrates both the possibility of profitable commercial spinoffs and the impossibility of predicting in advance the nature and extent of such spinoffs. Every effort would be made, however -- consistent with the mutual security interests, laws and policies of the United States and the Federal Republic -- to permit the results of unclassified joint cooperative research projects to be used in non-military applications in the two countries.

Q. How does the United States propose to deal with the kind of problem that occurred with the private German firm KHD?

A. The U.S. government requires foreign governments' assurances that certain sensitive export-controlled articles and data transferred from the United States will not be re-exported or resold without U.S. government approval. Furthermore, the U.S. government will not agree to joint work on sensitive and classified projects until proper arrangements, to include security measures, are satisfactorily completed. These requirements are not unique to the FRG.

Each party would be able to use foreground information developed under a jointly-financed cooperative research project for its own military forces without restriction. Arrangements regarding other uses, e.g., for commercial purposes or transfer of the information or products containing such information to third parties, would be mutually agreed for each project. Every effort would be made, consistent with the mutual security interests, laws and policies of the United States and the Federal Republic, to permit the results of unclassified joint cooperative research projects in SDI technologies to be used in non-military applications in the two countries.

Exchange and use of foreground information resulting from research projects funded entirely by the United States would be subject to U.S. approval.

Both parties would have to agree to take all necessary and appropriate steps to prevent the unauthorized transfer of SDI technology to the Soviet Union, its allies, and other COCOM-proscribed destinations.

August 1985 Version:

C. Technology Transfer

Q. Willingness of the U.S. government to permit the transfer of results of SDI research to German parties interested (including those cases where there is no German participation)?

A. Contracts and memoranda of agreement developed for FRG research programs would contain provisions governing the use of "foreground information" -- i.e., technical information generated in the course of or under the FRG research projects, including any invention or discovery which is conceived or first actually reduced to practice in the course of or under the projects.

Each party would be able to use foreground information developed under a jointly-financed cooperative research project for its own military forces without restriction. Arrangements regarding other uses of such information, e.g., for commercial purposes or transfer of the information or products containing such information to third parties, would be mutually agreed for each project. Every effort would be made, consistent with the mutual security interests, laws and policies of the United States and the Federal Republic, to permit the results of unclassified joint cooperative research projects in SDI technologies to be used in non-military applications in the two countries. Exchange and use of foreground information resulting from research projects funded entirely by the United States would be subject to U.S. approval.

Concerning research areas in which there is no German participation, we will continue to inform the FRG and other allies in detail on the progress of the research program as a whole. We would not be able, however, to share freely with the FRG all the information developed from SDI activities in which the FRG does not participation. The ABM Treaty places limits on the amount and type of SDI information which we may share with other countries. SDI research data may not be shared if that information sharing would be for the purpose of and result in providing technical descriptions or blueprints specially worked out for the construction of ABM systems or their components. In addition, our research contracts/memoranda of agreement with other firms and governments -- in the SDI just as in other areas -- protect their rights to background information and information developed as a result of their research activities, and therefore restrict the extent to which we could transmit that information to third parties. The same protection would of course be extended to FRG government and industry regarding their SDI research activities.

Q. Spin-offs to be expected in the military and civilian fields?

A. We expect significant military spinoffs from SDI research, e.g., in the area of conventional defense. We also expect commercial spinoffs from this large research effort. Those will depend in part on the type and sensitivity of the research. In addition, both parties would have to agree to take all necessary and appropriate steps to prevent the unauthorized transfer of SDI technology to the Soviet Union, its allies, and the other COCOM-proscribed destinations.

While we expect significant commercial spinoffs from SDI research, it is important to bear in mind that the purpose of the program is to determine the feasibility of developing a defense system, not commercial technology. The experience of several allied countries, including the FRG and the United States, with other high-technology research programs clearly demonstrates both the possibility of profitable commercial spinoffs and the impossibility of predicting in advance their extent and nature. Every effort would be made -- consistent with the mutual security interests, laws and policies of the United States and the Federal Republic -- to permit the results of unclassified joint cooperative SDI research projects to be used in non-military applications in the two countries.

Q. Keeping the Federal Government informed and up-to-date on the development of the overall SDI architecture?

A. We hope for the broadest possible FRG participation in the SDI research program, spanning its major elements. Consistent with U.S. laws and regulations and international obligations including the ABM Treaty, and subject to privately-owned proprietary rights, the SDIO or its agent would make available to FRG contractors the technical data needed for full participation in agreed cooperative programs and contracts. In addition, we will continue to inform the FRG and other allies in detail on the progress of the research program as a whole. Our laws, international treaty obligations, and the terms of SDI research contracts and agreements on cooperative research projects with other countries would of course place limits on the amount and type of information on research results that we could share with the FRG. For example, under the terms of the ABM Treaty, we could not share information that would be for the purpose of and result in providing technical descriptions or blueprints specially worked out for the construction of ABM systems or their components.

SECURITY CONSIDERATIONS

TALKING POINTS

-- Much SDI research, and therefore potentially FRG participation in the research program, is unclassified. Every effort would be made, consistent with the mutual security interests, laws and policies of the United States and the Federal Republic, to permit the results of unclassified joitn cooperative research projects in SDI technologies to be used in non-military applications in the two countries.

-- There would be no compensation in case the commercial use of research results were limited by classification. However, the security requirements for classified research projects would be specified and agreed in advance for each project. As provided in the U.S.-FRG Industrial Security Agreement of 16 April 1970, classification guidance regarding the research results would be included in the contract or memorandum of agreement for each classified research project.

-- The U.S. government will have final classification authority, although it may discuss any unclear issues with the contractor and consider the contractor's view.

-- U.S. government policies governing the disclosure of classified information to foreign governments and firms are well-developed and the procedures well-defined.

-- The National Disclosure Policy, established by the National Security Council and approved by the President, provides for the release of classified information only on a government-to-government basis. A recipient foreign government may in turn release U.S. classified information to its specified contractors, provided the recipient government assumes certain responsibilities for its continued protection. This is accomplished through government-to-government security agreements or other appropriate assurances.

-- In the FRG case, the German-American General Security of Information Agreement of 23 December 1960 and the 1970 Industrial Security Agreement are the basic relevant documents, and apply to SDI research programs. In those cases where a particular research effort may involve a special access program, additional extraordinary measures may be required in a project-specific Memorandum of Agreement or contract.

-- The following requirements must be satisfied for a foreign contractor to perform (or receive information necessary to bid on) U.S. contracts or sub-contracts:

-- The contractor must be cleared by its government;

-- The information involved must be releasable to the government of the prospective contractor;

-- The information must be transferred through government-to-government channels.

-- To prevent delays in the competitive bidding or sole source contracting process, a foreign disclosure review would be conducted before issuing a Request for Proposal on any contract where FRG participation is anticipated. Based on the foreign disclosure review, the Request for Proposal would specify whether FRG contractors were invited to bid.

-- These same basic rules apply to FRG attendance at classified meetings and conferences.

FRG: Would US be willing to allow a partner to help determine security classification

FABENS: We would invite consultation, but will retain the right of final decision

~~Abe~~: USG does not classify basic research unless there is the possibility of a major breakthrough

FRG: If security classification changes during research, is there compensation

Turner: Compensation for costs incurred — not for expected spin-offs

Who determines classification? U.S., after consultation, has classification authority — even for joint projects

Abe: Will establish an information center a SDIO to indicate when potential contracts appear on the horizon. Wants a ~~SDIO expert~~ industrial expert ~~[illegible]~~ at Embassy to monitor SDIO for potential contracts.

SECURITY CONSIDERATIONS

-- MUCH SDI RESEARCH UNCLASSIFIED

-- PROJECT CLASSIFICATION REQUIRED WOULD BE SPECIFIED IN ADVANCE

-- WELL-DEFINED PROCEDURES FOR DISCLOSURE OF CLASSIFIED INFORMATION TO FOREIGN GOVERNMENTS AND FIRMS

  -- 1960 U.S.-FRG GENERAL SECURITY OF INFORMATION

  -- 1970 U.S.-FRG INDUSTRIAL SECURITY AGREEMENT

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SECURITY CONSIDERATIONS

FRG QUESTIONS

June 1985 Version:

Q. With respect to the issue of security classification, would the U.S. be willing to provide to the cooperating partner a role in the decision on whether something in the SDI research project should be classified?

A. It is standard policy with respect to government contracts that the contracting government agency will provide classification guidance to the contractor for each classified aspect of the program or project regardless of whether the contract is awarded in the United States or abroad. This requirement is specified in the U.S.-FRG Industrial Security Agreement of 16 April 1970. For the United ,States, the guidance normally is provided in a DD Form 254, "Contract Security Classification Specification", which is a part of the contract and therefore binding on both parties to the contract. If classification questions arise which are not covered clearly by the contract, such questions may be discussed with the contractor and the contractor's view will be considered; however, the contracting authority (i.e., the U.S. government) has final classification authority in such cases.

August 1985 Version:

E. Security

Q. Responsibility for the security grading of the research results?

A. It is standard policy with respect to government contracts that the contracting government agency will provide classification guidance to the contractor for each classified aspect of the program or project, regardless of whether the contract is awarded in the United States or abroad. If classification questions arise which are not covered clearly by the contract, such questions may be discussed with the contractor and the contractor's view will be considered; however, the contracting authority (i.e., the U.S. government) has final classification authority in such cases.

Q. Early information on the classification of the research results?

A. Classification guidance normally is provided in a DD Form 254 (Contract Security Classification Specification), or similar form, which becomes a part of the contract or arrangement and, therefore, is binding on both parties. This requirement is specified in the U.S.-FRG Industrial Security Agreement of 16 April 1970.

Q. Application of precautionary security measures in accordance with the provision of the German-American security agreement of 23 December 1960?

A. The 1960 security agreement as well as the 1970 Industrial Security Agreement apply to SDI research programs. In those cases where a particular research effort may involve a special access program, additional extraordinary measures may be required in a programmatic Memorandum of Agreement or contract.

Q. Compensation in case the commercial use of the research results is restricted by classification?

A. There would be no compensation. However, security requirements would be specified and agreed in advance for each research project. Every effort would be made, consistent with the mutual security interests, laws and policies of the United States and the Federal Republic, to permit the results of the unclassified joint cooperative research projects in SDI technologies to be used in non-military applications in the two countries.

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Contingency Press Guidance for FRG SDI Visit

Q. Is it true that a large West German team of government officials and industry representatives are here in (will be coming to) Washington to discuss their participation in SDI research?

A. Yes. After Secretary Weinberger's invitation to our Allies to participate in SDI research we have been engaged in close and continuing discussions with a number of Allied governments. The meeting with the West German delegation is part of that process.

Q. Who are the West German team members and who will they meet with while in Washington?

A. The West German team is headed by Mr. Horst Teltschik, Foreign Policy and National Security Advisor to Chancellor Kohl. While in Washington they will have meetings with various officials including the SDIO Director, General Abrahamson.

Q. What are the prospects for West German participation in the SDI research program?

A. It would be inappropriate for us to comment on German government plans or on the substance of our confidential government-to-government discussions. We do, however, look forward to active, substantial participation with our Allies, including West Germany, which would be of significant benefit to both the SDI research program and the country involved.

Q. Is it true, as press reports indicate, that the German team will visit research facilities throughout the U.S.?

A. Yes. To enhance their fact finding mission on the SDI program, the West German team will travel to some of our government laboratories, military facilities and civilian contractors who are engaged in the SDI research effort.

Q. Can you tell us what they will see while traveling to these facilities?

A. The delegation will split up into four teams which are structured by technological interest. These are: directed energy, kinetic energy, information processing and sensors.

Q. After the recent reports of extensive security problems in West Germany, are special precautions being taken to protect U.S. information from this delegation?

A. Our security agencies have had an integral role to play in preparations for all such Allied visits. We have had and will continue to have bilateral information security agreements which are designed to protect sensitive information from unauthorized disclosure.

Q. Is it true, as press reports indicate, that the West German government has presented several demands regarding the terms of its participation in SDI research.

A. Our discussions with the West German government on German discussions and negotiations, are confidential. It would be inappropriate for us to comment on the substance of such confidential exchanges.

Q. If the United States does not accept the reported German conditions for participation in SDI research, do you think the West German government would decide not to participate in the SDI program?

A. Again, it would be inappropriate for us to comment on the substance of our confidential discussions with the West German government or on West German plans regarding participation in SDI research. We look forward, however, to active, substantial participation in the SDI research effort by the FRG and other allies, which would be of significant benefit to both that program and to the country involved.

MAJOR QUESTIONS ON FRG PARTICIPATION IN SDI RESEARCH

JUNE 1985 VERSION

Q. How does the United States envisage the organization or mechanisms that would allow the FRG to derive benefits from and the same time advance the SDI program?

A. The United States looks forward to the broadest possible participation by the FRG in SDI research -- using a variety of mechanisms -- which would be of substantial benefit both to the FRG and the SDI research effort. An essential element of participation is that each contract or joint program stand on its own technological merit, to the benefit of both the FRG and the SDI research program.

Q. The U.S. has stringent regulations regarding data exchange; the FRG has had experiences where people who had cooperated on a joint project with the U.S. were later not allowed to know the results of that work. Could the same circumstances occur with SDI cooperation? Will the allies be limited to a very narrow line of exchange?

A. The United States looks forward to the broadest possible allied participation in SDI research. SDIO or its agent would make available to FRG contractors the technical data needed for full participation in agreed cooperative programs and contracts, consistent with U.S. laws and regulations, and international obligations including the ABM Treaty, and subject to privately-owned proprietary rights.

Each government would recognize and protect background information provided by the other government or its contractors. By "background information", we mean the technical data necessary to or useful in the research effort, but generated before or outside the particular research project, whether by government establishments, contractors at private expense, or government contractors at government expense. The recipient of that information could not use it for any other purpose without the authorization of the owner. Participation in an SDI project would not affect the originator's ownership of that information, or his freedom to use it as he saw fit.

Each party would be able to use foreground information developed under a jointly-financed cooperative research project for its own military forces without restriction. By "foreground information", we mean technical information generated in the course of or under the research project, including any invention or discovery which is conceived or first actually reduced to practice in the course of or under the research project. Arrangements regarding other uses of such information, e.g., for commercial purposes or transfer

to third parties, would be mutually agreed for each project. Every effort would be made, consistent with the mutual security interests, laws and policies of the United States and the Federal Republic, to permit the results of unclassified joint cooperative research projects in SDI technologies to be used in non-military applications in the two countries.

Exchange and use of foreground information resulting from research projects funded solely by the United States would be subject to U.S. approval.

Q. How will the FRG be able to take the results of collaborative SDI research and bring them to commercialization?

A. We certainly expect commercial spinoffs from this large research effort. Those will depend in part on the type and sensitivity of the research. In addition, both parties would have to agree to take all necessary and appropriate steps to prevent the unauthorized retransfer of SDI technology to the Soviet Union, its allies, and the other COCOM-proscribed destinations.

Every effort would be made -- consistent with the mutual security interests, laws and policies of the United States and the Federal Republic -- to permit the results of unclassified joint cooperative SDI research projects to be used in non-military applications in the two countries. It is important to bear in mind, however, that the purpose of SDI research is to determine the feasibility of developing a defense system, not commercial technology. The experience of several allied countries, including the FRG and the United States, with other high technology research programs clearly demonstrates both the possibility of profitable commercial spinoffs and the impossibility of predicting in advance the nature and extent of such spinoffs.

Q. Can the U.S. describe in detail the forms of cooperation that would apply to the FRG?

A. Many potential forms of cooperation exist for FRG involvement in SDI research. However, until more specific areas are identified, it is impracticable to attempt to describe which ones would be utilized for each research project. These will be considered on a case-by-case basis, depending upon the type and scope of the particular involvement.

Presently, there is an extensive array of cooperative arrangements between the FRG and the United States which is representative of the methods which could be considered for SDI involvement. These include information exchange programs, joint ventures, and award of DoD contracts to universities and industries for research and development. Essentially, potential methods of FRG participation in cooperative SDI research include: standard competitive bidding

for direct contracts and sub-contracts; if a unique capability exists, direct sole-source contracting arrangements with government laboratories, private firms and universities; and cooperative research programs pursuant to a government-to-government agreement.

There are a number of enabling mechanisms already in force between the FRG and the United States which could apply to SDI cooperative research in whole or in part or with modification. Among these are Data Exchange Agreements which cover approximately 100 specific exchange projects with the FRG. There also is the Memorandum of Understanding of Principals Governing Mutual Cooperation in the Research and Development, Production, Procurement and Logistic Support of Defense Equipment which commits the FRG and the United States to open their defense markets to each other. There are also many project-specific Memoranda of Understanding. We propose to build on and draw upon these existing arrangements, as appropriate.

Q. Will the FRG be able to get out of the sub-contractor role? Will the FRG have access to the result of overall SDI projects? Will the FRG be expected to contribute to only specific areas but not profit from the overall results?

A. While sub-contracts with U.S. prime contractors would be one possible vehicle for FRG involvement in SDI research which could be of benefit to both the FRG and the research program, the United States envisions an FRG role in SDI research going well beyond sub-contracts. The Strategic Defense Initiative Organization (SDIO), working within existing security arrangements and agreements, could contract directly with German commercial industry or research institutions, on a sole source or competitive basis, as appropriate. Additionally, SDIO may, consistent with U.S. laws and regulations, contract with the FRG government, which could in turn subcontract with FRG firms or research institutions. There also may be areas in which the U.S. and FRG governments might wish to establish jointly-financed cooperative research projects.

We hope for the broadest possible FRG participation in the SDI research program, spanning its major elements. In addition, we will continue to inform the FRG and other allies in detail on the progress of the research program as a whole. Finally, as we have repeatedly stressed, the purpose of the SDI is to enhance allied as well as U.S. security. In all those respects, the FRG will have access to -- and can expect to profit from -- the overall results of the SDI program.

However, we would not be able to share freely with the FRG all the information developed from SDI activities in which the FRG does not participate. The ABM Treaty, of course, places limits on the amount and type of SDI information which we may share with other countries. Thus, SDI research data may not be shared if that information sharing would be for the purpose of and result in

providing technical descriptions or blueprints specially worked out for the construction of ABM systems or their components. In addition, our research contracts/agreements with other firms or governments -- in the SDI just as in other areas -- protect their rights to background information and information developed as a result of their research activities, and therefore restrict the extent to which we could transmit that information to third parties. The same protection would of course be extended to FRG government and industry regarding their SDI research activities.

Q. With respect to the issue of security classification, would the U.S. be willing to provide to the cooperating partner a role in the decision on whether something in the SDI research project should be classified?

A. It is standard policy with respect to government contracts that the contracting government agency will provide classification guidance to the contractor for each classified aspect of the program or project regardless of whether the contract is awarded in the United States or abroad. This requirement is specified in the U.S.-FRG Industrial Security Agreement of 16 April 1970. For the United States, the guidance normally is provided in a DD Form 254, "Contract Security Classification Specification", which is a part of the contract and therefore binding on both parties to the contract. If classification questions arise which are not covered clearly by the contract, such questions may be discussed with the contractor and the contractor's view will be considered; however, the contracting authority (i.e., U.S. government) has final classification authority in such cases.

Q. How does the United States propose to deal with the kind of problem that occurred with the private German firm KHD?

A. The U.S. government requires foreign governments' assurances that certain sensitive export-controlled articles and data transferred from the United States will not be re-exported or resold without U.S. government approval. Furthermore, the U.S. government will not agree to joint work on sensitive and classified projects until proper arrangements, to include security measures, are satisfactorily completed. These requirements are not unique to the FRG.

Each party would be able to use foreground information developed under a jointly-financed cooperative research project for its own military forces without restriction. Arrangements regarding other uses, e.g., for commercial purposes or transfer of the information or products containing such information to third parties, would be mutually agreed for each project. Every effort

would be made, consistent with the mutual security interests, laws and policies of the United States and the Federal Republic, to permit the results of unclassified joint cooperative research projects in SDI technologies to be used in non-military applications in the two countries.

Exchange and use of foreground information resulting from research projects funded entirely by the United States would be subject to U.S. approval.

Both parties would have to agree to take all necessary and appropriate steps to prevent the unauthorized retransfer of SDI technology to the Soviet Union, its allies, and other COCOM-proscribed destinations.

[redacted]

P 00003R

MAJOR QUESTIONS FOR FRG PARTICIPATION IN SDI RESEARCH

AUGUST 1985 VERSION

A. Type and extent of a possible German participation

Q. Assumption of coherent tasks up to and including subordinate systems?

A. The United States looks forward to the fullest possible FRG participation in SDI research, which would be of significant benefit both to the research program and to the FRG. FRG research projects could be agreed that separately or together amount to a coherent task, within the limits set by U.S. law and treaty obligations, including the ABM Treaty.

Under that Treaty, the United States can engage in data exchanges and cooperative research regarding subcomponents or parts of ABM components and other devices which are not ABM components. The United States may not, however, transfer to other States ABM systems or their components limited by the Treaty. Moreover, SDI research data will be shared and cooperative research conducted only if the cooperative effort is not for the purpose of and would not result in providing technical descriptions or blueprints specially worked out for the construction of ABM systems or their components. The overall level of cooperative effort with each country will be subject to continuing review for compliance with U.S. obligations under the ABM Treaty.

Q. Procedure used by SDIO in the awarding of contracts to German contractors?

A. Essentially, German participation in the SDI program may be based on one or more of the following procedures: cooperative research programs agreed in a government-to-government Memorandum of Agreement; direct U.S. government contract to a German contractor or team of contractors, on a sole source or competitive bidding basis, as appropriate; sub-contracts with a U.S. prime contractor. Contracts could be let with German commercial industry or research institutions, or with the FRG government which could in turn sub-contract with FRG firms or research institutions. The U.S. government will follow the applicable U.S. laws and regulations in awarding contracts to German contractors.

B. Contract awarding, price fixing, price review

Q. Provision of all information necessary for the bidding for and handling of contracts? Legal basis for price fixing and price review?

[redacted]

A. The SDIO or its agent would make available to FRG contractors the technical data needed for full participation in contracts and agreed cooperative programs, consistent with U.S. laws and regulations, and international obligations including the ABM Treaty, and subject to privately-owned proprietary rights. The U.S. Federal Acquisitions Regulation (FAR) provides guidance for the award of DoD contracts, including the information required to support the price paid for a particular good or service.

Q. Naming of central points of contact on both sides?

A. The SDIO would normally be the point of contact on the U.S. side regarding FRG participation in SDI research. Other organizations, however, might be designated as the points of contact for specific research projects, depending on the project involved.

C. Technology transfer

Q. Willingness of the U.S. government to permit the transfer of results of SDI research to German parties interested (including those cases where there is no German participation)?

A. Contracts and memoranda of agreement developed for FRG research projects would contain provisions governing the use of "foreground information" -- i.e., technical information generated in the course of or under the FRG research projects, including any invention or discovery which is conceived or first actually reduced to practice in the course of or under the projects.

Each party would be able to use foreground information developed under a jointly-financed cooperative research project for its own military forces without restriction. Arrangements regarding other uses of such information, e.g., for commercial purposes or transfer of the information or products containing such information to third parties, would be mutually agreed for each project. Every effort would be made, consistent with the mutual security interests, laws and policies of the United States and the Federal Republic, to permit the results of unclassified joint cooperative research projects in SDI technologies to be used in non-military applications in the two countries. Exchange and use of foreground information resulting from research projects funded entirely by the United States would be subject to U.S. approval.

Concerning research areas in which there is no German participation, we will continue to inform the FRG and other allies in detail on the progress of the research program as a whole. We would not be able, however, to share freely with the FRG all the information developed from SDI activities in which the FRG does not participate. The ABM Treaty places limits on the amount and type of SDI information which we may share with other countries. SDI research data may

not be shared if that information sharing would be for the purpose of and result in providing technical descriptions or blueprints specially worked out for the construction of ABM systems or their components. In addition, our research contracts/memoranda of agreement with other firms and governments -- in the SDI just as in other areas -- protect their rights to background information and information developed as a result of their research activities, and therefore restrict the extent to which we could transmit that information to third parties. The same protection would of course be extended to FRG government and industry regarding their SDI research activities.

Q. Spin-offs to be expected in the military and civilian fields?

A. We expect significant military spinoffs from SDI research, e.g., in the area of conventional defense. We also expect commercial spinoffs from this large research effort. Those will depend in part on the type and sensitivity of the research. In addition, both parties would have to agree to take all necessary and appropriate steps to prevent the unauthorized retransfer of SDI technology to the Soviet Union, its allies, and the other COCOM-proscribed destinations.

Every effort would be made -- consistent with the mutual security interests, laws and policies of the United States and the Federal Republic -- to permit the results of unclassified joint cooperative SDI research projects to be used in non-military applications in the two countries. It is important to bear in mind, however, that the purpose of the SDI research program is to determine the feasibility of developing a defense system, not commercial technology. The experience of several allied countries, including the FRG and the United States, with other high-technology research programs clearly demonstrates both the possibility of profitable commercial spinoffs and the impossibility of predicting in advance their extent and nature.

Q. Keeping the Federal Government informed and up-to-date on the development of the overall SDI architecture?

A. We hope for the broadest possible FRG participation in the SDI research program, spanning its major elements. Consistent with U.S. laws and regulations and international obligations including the ABM Treaty, and subject to privately-owned proprietary rights, the SDIO or its agent would make available to FRG contractors the technical data needed for full participation in agreed cooperative programs and related contracts. In addition, we will continue to inform the FRG and other allies in detail on the progress of the research program as a whole. Our laws, international treaty obligations, and the terms of SDI research contracts and agreements on cooperative research projects with other countries would of course place limits on the amount and type of information on

research results that we could share with the FRG. For example, under the terms of the ABM Treaty, we could not share information that would be for the purpose of and result in providing technical descriptions or blueprints specially worked out for the construction of ABM systems or their components.

D. Users' rights and exploitation rights

Q. Equal status of German contractors in regard to property and users' rights of research results (most-favored-nation treatment)?

A. Each party would be able to use foreground information developed under a jointly-financed research project for its own military forces without restriction. Arrangements regarding other uses, e.g., for commercial purposes or transfer of the information or products containing such information to third parties, would be mutually agreed for each project. Every effort would be made, consistent with the mutual security interests, laws and policies of the United States and the Federal Republic, to permit the results of unclassified joint cooperative research projects in SDI technologies to be used in non-military applications in the two countries.

Exchange and use of foreground information resulting from research projects entirely funded by the United States would be subject to U.S. approval.

Both parties would have to agree to take all necessary and appropriate steps to prevent the unauthorized retransfer of SDI technology to the Soviet Union, its allies, and the other COCOM-proscribed destinations.

Proprietary information would be subject to the rights of the owner and such rights of use as may be obtained for each party. The recipient of such information would have to obtain the approval of the provider before its sale or transfer to a third party.

Q. Retention with the contractor of those rights which originated before the conclusion of the research contract.

A. Each government would recognize and protect background information provided by the other government or its contractors. By "background information", we mean the technical data necessary to or useful in the research effort, but generated before or outside of the particular research project, whether by government establishments, contractors at private expense, or government contractors at government expense. The recipient of that information would not be able to use it for any other purpose without the authorization of the owner. Participation in an SDI project would not affect the originator's ownership of or freedom to use it as he saw fit.

E. Security

Q. Responsibility for the security grading of the research results?

A. It is standard policy with respect to government contracts that the contracting government agency will provide classification guidance to the contractor for each classified aspect of the program or project, regardless of whether the contract is awarded in the United States or abroad. If classification questions arise which are not covered clearly by the contract, such questions may be discussed with the contractor and the contractor's view will be considered; however, the contracting authority (i.e., the U.S. government) has final classification authority in such cases.

Q. Early information on the classification of the research results?

A. Classification guidance normally is provided in a DD Form 254 (Contract Security Classification Specification), or similar form, which becomes a part of the contract or arrangement and, therefore, is binding on both parties. This requirement is specified in the U.S.-FRG Industrial Security Agreement of 16 April 1970.

Q. Application of precautionary security measures in accordance with the provision of the German-American security agreement of 23 December 1960?

A. The 1960 security agreement as well as the 1970 Industrial Security Agreement apply to SDI research programs. In those cases where a particular research effort may involve a special access program, additional extraordinary measures may be required in a programmatic Memorandum of Agreement or contract.

Q. Compensation in case the commercial use of the research results is restricted by classification?

A. There would be no compensation. However, security requirements would be specified and agreed in advance for each research project. Every effort would be made, consistent with the mutual security interests, laws and policies of the United States and the Federal Republic, to permit the results of the unclassified joint cooperative research projects in SDI technologies to be used in non-military applications in the two countries.

[redacted]

P0004

ASSISTANT SECRETARY OF DEFENSE
WASHINGTON D C 20301

1986

INTERNATIONAL
SECURITY POLICY

[redacted]

[redacted]

Sincerely,

/s/

Richard Perle

[redacted]

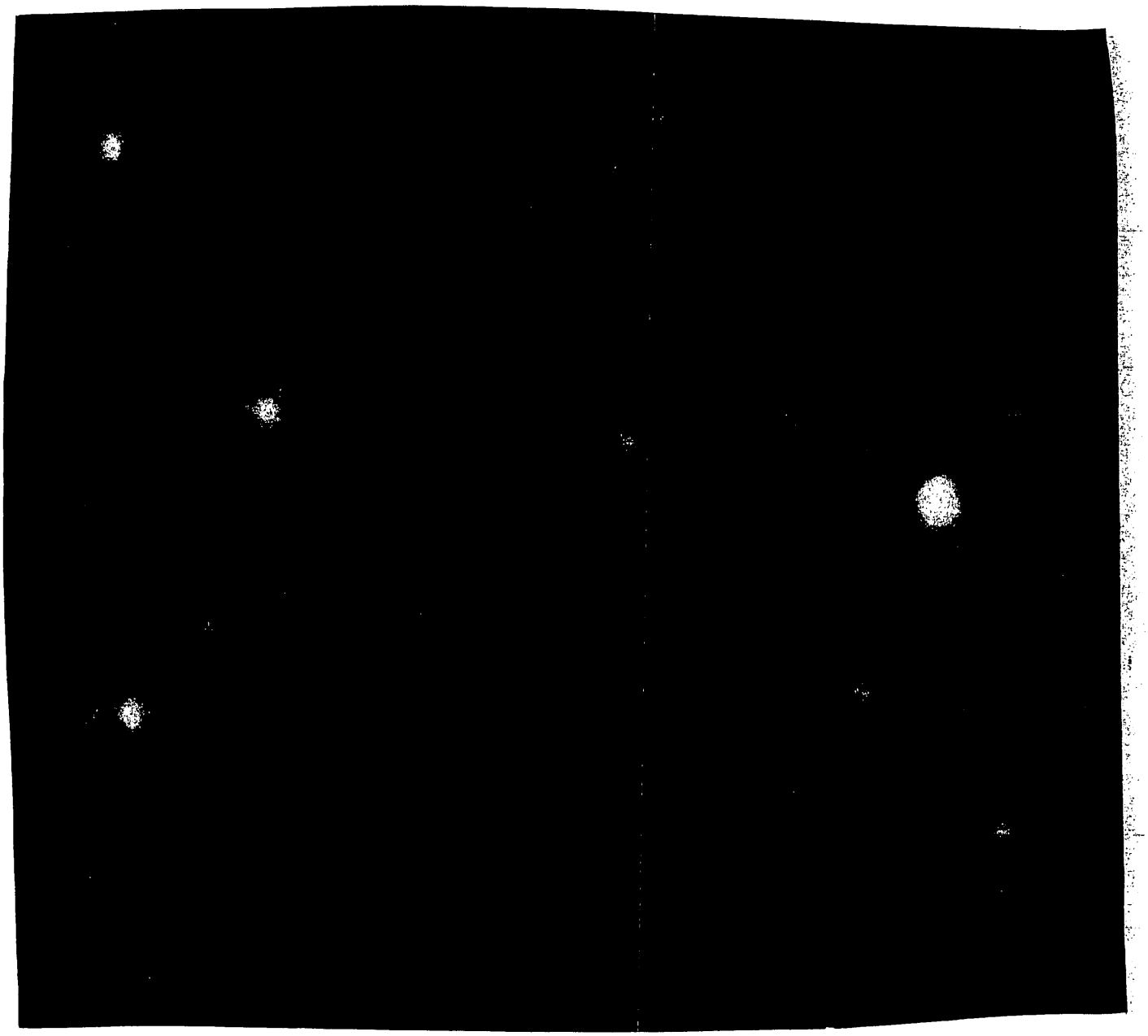
[redacted]

THE SECRETARY OF DEFENSE

WASHINGTON THE DISTRICT OF COLUMBIA

P0044

27 MAR 1986



Sincerely,

Caspar W. Weinberger

[redacted]

P004B

THE SECRETARY OF DEFENSE

WASHINGTON, THE DISTRICT OF COLUMBIA

27 MAR 1986

The Honorable Martin Bangemann
Federal Minister of Economics
Bonn, Federal Republic of Germany

Dear Minister Bangemann:

I am pleased that we have completed a memorandum of understanding covering the participation of German industries, research establishments and other entities in the U.S. strategic defense research program and a joint understanding of principles. I am pleased that our two countries will be working together to facilitate the involvement of German industries, research establishments and other entities in this advanced research program.

Our discussion on 19 March was very useful, especially as it related to Berlin. I certainly hope that the very considerable technological, scientific and industrial talent for which Berlin is justly renowned will be brought to bear in the SDI program and that many Berliners will contribute to the research effort. You may be assured that we will encourage companies and institutions in Berlin to join our efforts, consistent with allied rights and responsibilities.

Sincerely,

Caspar W. Weinberger

[redacted]

P0013

ENABLING MECHANISMS FOR FRG PARTICIPATION IN SDI RESEARCH

Under the terms of the existing security of information agreements between the United States and the Federal Republic, German industry would be able to seek classified as well as unclassified SDI contracts and sub-contracts. In the case of unclassified contracts, no action by the Government of the Federal Republic would be required. Neither would government action be required to enable German contractors to seek classified SDI contracts and sub-contracts, except as specified in the U.S. National Disclosure Policy and provided for in the 1960 and 1970 information security agreements: i.e., the contractor must be cleared by the government, and the classified information involved must be transferred through government-to-government channels.

Absent any new government-to-government agreement regarding German participation in SDI research, however, German firms would simply be able to seek SDI contracts and sub-contracts as they do now regarding other U.S. defense work. No special arrangements would have been worked out to facilitate German participation or to satisfy the other concerns raised by the Government of the Federal Republic regarding the terms and conditions of German research participation. As a practical matter, therefore, a new government-to-government agreement or agreements on SDI research would be necessary if German contractors were to have a substantial, broad-ranging role in SDI research and if the terms of their participation (regarding commercialization rights, information access, etc.) were to be fully satisfactory to the Government of the Federal Republic.

An effective mechanism to provide for a substantial German role in SDI research and to meet the other stated German concerns would be an overarching government-to-government agreement that would express the two sides' intentions, and agreed ground rules, regarding the basic terms and conditions of German participation in SDI research. Such an agreement would cover such issues as provision of the information necessary for German contractors to bid on and perform contracts, protection of classified information, rights to background and proprietary information, rights to use research results for other purposes, cost determination and verification, etc.

An overarching agreement could be embodied in a government-to-government exchange of letters or in a government-to-government Memorandum of Understanding. It would provide a comprehensive basis for German research participation, but would not in itself suffice for the actual initiation of SDI research projects by German entities. Each research project would require a separate agreement, whose terms would implement in specific and precise fashion the ground rules agreed in the overarching accord.

Those project-specific agreements could take several different forms:

-- a government-to-government Memorandum of Agreement establishing a cooperative research project that would be funded by both governments. Each government might implement its responsibilities under the Memorandum of Agreement by contracting out to private industry and research institutions.

-- a contract by the SDIO to the Government of the Federal Republic, fully funded by the United States, on a sole source or competitive basis, as appropriate. The German government might implement such a contract by sub-contracting with German industry and research institutions to perform the work of the contract;

-- a direct contract by the SDIO with German industry or research institutions, fully funded by the United States, on a sole source or competitive basis, as appropriate.

-- a sub-contract by a U.S. prime contractor with a German firm.

In several areas -- for example, rights of commercial use -- an overarching agreement could provide only general guidelines and statements of intent, because those rights would vary according to the nature and sensitivity of the specific research. Thus the project-specific agreements -- whether they be in the form of government-to-government memoranda of agreement, contracts with the Government of the Federal Republic, or direct contracts with German private firms -- would include precise terms and conditions on such subjects.

The choice of one or more of these project-specific enabling mechanisms for German SDI research participation -- just as of particular research projects -- would be made by mutual agreement, depending on areas of German technological strength and inrterest and SDI research requirements.