

31 JUL 1992

For Six Month Period Ending _____

(Insert date)

Name of Registrant

Registration No. 4274

Representative of German Industry and Trade

Business Address of Registrant

One Farragut Square South, N.W., Suite 600
Washington, D.C. 20006

I-REGISTRANT

1. Has there been a change in the information previously furnished in connection with the following:

(a) If an individual:

- | | | |
|-----------------------|------------------------------|-----------------------------|
| (1) Residence address | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (2) Citizenship | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (3) Occupation | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

(b) If an organization:

- | | | |
|--------------------------|------------------------------|--|
| (1) Name | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| (2) Ownership or control | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| (3) Branch offices | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

2. Explain fully all changes, if any, indicated in item 1.

inapplicable

IF THE REGISTRANT IS AN INDIVIDUAL, OMIT RESPONSE TO ITEMS 3, 4, and 5.

3. Have any persons ceased acting as partners, officers, directors or similar officials of the registrant during this 6 month reporting period? Yes No

If yes, furnish the following information:

Name	Position
Bernhard Welschke	Deputy Director

92 SEP - 8 PM 2: 27
 REC'D
 DATE CONNECTION ENDED
 SEP 8, 1992
 D.O.J. ORIGINAL DIVISION
 INTERNAL SECURITY SECTION

4. Have any persons become partners, officers, directors or similar officials during this 6 month reporting period?
Yes No

If yes, furnish the following information:

<i>Name</i>	<i>Residence Address</i>	<i>Citizenship</i>	<i>Position</i>	<i>Date Assumed</i>
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5. Has any person named in Item 4 rendered services directly in furtherance of the interests of any foreign principal?
Yes No inapplicable

If yes, identify each such person and describe his services.

6. Have any employees or individuals other than officials, who have filed a short form registration statement, terminated their employment or connection with the registrant during this 6 month reporting period? Yes No

If yes, furnish the following information:

<i>Name</i>	<i>Position or connection</i>	<i>Date terminated</i>
Bernhard Welschke	economist	April 8, 1992
Hartmut Schneider	lawyer	July 23, 1992

7. During this 6 month reporting period, have any persons been hired as employees or in any other capacity by the registrant who rendered services to the registrant directly in furtherance of the interests of any foreign principal in other than a clerical or secretarial, or in a related or similar capacity? Yes No

If yes, furnish the following information:

<i>Name</i>	<i>Residence Address</i>	<i>Position or connection</i>	<i>Date connection began</i>
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20 11 1992

II—FOREIGN PRINCIPAL

8. Has your connection with any foreign principal ended during this 6 month reporting period? Yes No

If yes, furnish the following information:

Name of foreign principal

Date of Termination

9. Have you acquired any new foreign principal¹ during this 6 month reporting period? Yes No

If yes, furnish following information:

Name and address of foreign principal

Date acquired

10. In addition to those named in Items 8 and 9, if any, list the foreign principals¹ whom you continued to represent during the 6 month reporting period.

- | | |
|--|--|
| 1) Deutscher Industrie- und Handelstag (DIHT)
(Association of German Chambers of Industry and Commerce) | 1) Adenauerallee 148
W-5300 Bonn 1
Germany |
| 2) Bundesverband der Deutschen Industrie (BDI)
(Federation of German Industries) | 2) Gustav-Heinemann-Ufer 84-88
W-5000 Koeln 51
Germany |

III—ACTIVITIES

11. During this 6 month reporting period, have you engaged in any activities for or rendered any services to any foreign principal named in Items 8, 9, and 10 of this statement? Yes No

If yes, identify each such foreign principal and describe in full detail your activities and services:

On behalf of DIHT and BDI (see no. 10 above)

RGIT reports, generally in writing, to its principals on U.S. rules and legislation and major economic developments of relevance to U.S.-German trade and investment. RGIT also informs the U.S. public and government about German business and views of German business on economic, legislative and administrative action of mutual concern. Activities include meetings with U.S. business, participation in conferences, testimony, and written submissions to the U.S. Government, distribution of documents and press releases, appointments for visitors from Germany, and mirror activities in the Federal Republic of Germany.

¹The term "foreign principal" includes, in addition to those defined in section 1(b) of the Act, an individual or organization any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign government, foreign political party, foreign organization or foreign individual. (See Rule 100(a)(9)).
A registrant who represents more than one foreign principal is required to list in the statements he files under the Act only those foreign principals for whom he is not entitled to claim exemption under Section 3 of the Act. (See Rule 208.)

12. During this 6 month reporting period, have you on behalf of any foreign principal engaged in political activity² as defined below?
Yes No

If yes, identify each such foreign principal and describe in full detail all such political activity, indicating, among other things, the relations, interests and policies sought to be influenced and the means employed to achieve this purpose. If the registrant arranged, sponsored or delivered speeches, lectures or radio and TV broadcasts, give details as to dates, places of delivery, names of speakers and subject matter.

See attached sheets

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13. In addition to the above described activities, if any, have you engaged in activity on your own behalf which benefits any or all of your foreign principals? Yes No

If yes, describe fully.

²The term "political activities" means the dissemination of political propaganda and any other activity which the person engaging therein believes will, or which he intends to, prevail upon, indoctrinate, convert, induce, persuade, or in any other way influence any agency or official of the Government of the United States or any section of the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States or with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party.

IV—FINANCIAL INFORMATION

14. (a) RECEIPTS—MONIES

During this 6 month reporting period, have you received from any foreign principal named in Items 8, 9 and 10 of this statement, or from any other source, for or in the interests of any such foreign principal, any contributions, income or money either as compensation or otherwise? Yes No

If yes, set forth below in the required detail and separately for each foreign principal an account of such monies.³

<i>Date</i>	<i>From Whom</i>	<i>Purpose</i>	<i>Amount</i>
monthly installments	BDI/DIHT	current operating expenses	\$ 240,000
monthly installments	BDI/DIHT	salaries of three German professionals registered under FARA (Löthar Griessbach) (Bernhard Welschke) (Hartmut Schneider)	\$ 57,000
Total			\$ 297,000

(b) RECEIPTS—THINGS OF VALUE

During this 6 month reporting period, have you received any thing of value⁴ other than money from any foreign principal named in Items 8, 9 and 10 of this statement, or from any other source, for or in the interests of any such foreign principal?

Yes No

If yes, furnish the following information:

<i>Name of foreign principal</i>	<i>Date received</i>	<i>Description of thing of value</i>	<i>Purpose</i>
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³A registrant is required to file an Exhibit D if he collects or receives contributions, loans, money, or other things of value for a foreign principal, as part of a fund raising campaign. See Rule 201(e).
⁴Things of value include but are not limited to gifts, interest free loans, expense free travel, favored stock purchases, exclusive rights, favored treatment over competitors, "kickbacks," and the like.

15. (a) DISBURSEMENTS—MONIES

During this 6 month reporting period, have you

(1) disbursed or expended monies in connection with activity on behalf of any foreign principal named in Items 8, 9 and 10 of this statement? Yes No

(2) transmitted monies to any such foreign principal? Yes No

If yes, set forth below in the required detail and separately for each foreign principal an account of such monies, including monies transmitted, if any, to each foreign principal.

<i>Date</i>	<i>To Whom</i>	<i>Purpose</i>	<i>Amount</i>
See attached sheet			

Total

15. (b) DISBURSEMENTS—THINGS OF VALUE

During this 6 month reporting period, have you disposed of anything of value⁵ other than money in furtherance of or in connection with activities on behalf of any foreign principal named in items 8, 9 and 10 of this statement?
Yes No

If yes, furnish the following information:

<i>Date disposed</i>	<i>Name of person to whom given</i>	<i>On behalf of what foreign principal</i>	<i>Description of thing of value</i>	<i>Purpose</i>
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(c) DISBURSEMENTS—POLITICAL CONTRIBUTIONS

During this 6 month reporting period, have you from your own funds and on your own behalf either directly or through any other person, made any contributions of money or other things of value⁵ in connection with an election to any political office, or in connection with any primary election, convention, or caucus held to select candidates for political office?
Yes No

If yes, furnish the following information:

<i>Date</i>	<i>Amount or thing of value</i>	<i>Name of political organization</i>	<i>Name of candidate</i>
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V—POLITICAL PROPAGANDA

(Section 1(j) of the Act defines "political propaganda" as including any oral, visual, graphic, written, pictorial, or other communication or expression by any person (1) which is reasonably adapted to, or which the person disseminating the same believes will, or which he intends to, prevail upon, indoctrinate, convert, induce, or in any other way influence a recipient or any section of the public within the United States with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party or with reference to the foreign policies of the United States or promote in the United States racial, religious, or social dissensions, or (2) which advocates, advises, instigates, or promotes any racial, social, political, or religious disorder, civil riot, or other conflict involving the use of force or violence in any other American republic or the overthrow of any government or political subdivision of any other American republic by any means involving the use of force or violence.)

16. During this 6 month reporting period, did you prepare, disseminate or cause to be disseminated any political propaganda as defined above? Yes No

IF YES, RESPOND TO THE REMAINING ITEMS IN THIS SECTION V.

17. Identify each such foreign principal.

⁵Things of value include but are not limited to gifts, interest free loans, expense free travel, favored stock purchases, exclusive rights, favored treatment over competitors, "kickbacks," and the like.

18. During this 6 month reporting period, has any foreign principal established a budget or allocated a specified sum of money to finance your activities in preparing or disseminating political propaganda? Yes No

If yes, identify each such foreign principal, specify amount, and indicate for what period of time.

19. During this 6 month reporting period, did your activities in preparing, disseminating or causing the dissemination of political propaganda include the use of any of the following:

- Radio or TV broadcasts
- Magazine or newspaper articles
- Motion picture films
- Letters or telegrams
- Advertising campaigns
- Press releases
- Pamphlets or other publications
- Lectures or speeches
- Other (specify) _____

20. During this 6 month reporting period, did you disseminate or cause to be disseminated political propaganda among any of the following groups:

- Public Officials
- Newspapers
- Libraries
- Legislators
- Editors
- Educational institutions
- Government agencies
- Civic groups or associations
- Nationality groups
- Other (specify) _____

21. What language was used in this political propaganda:

- English
- Other (specify) _____

22. Did you file with the Registration Section, U.S. Department of Justice, two copies of each item of political propaganda material disseminated or caused to be disseminated during this 6 month reporting period? Yes No

23. Did you label each item of such political propaganda material with the statement required by Section 4(b) of the Act? Yes No

24. Did you file with the Registration Section, U.S. Department of Justice, a Dissemination Report for each item of such political propaganda material as required by Rule 401 under the Act? Yes No

VI--EXHIBITS AND ATTACHMENTS

25. EXHIBITS A AND B

(a) Have you filed for each of the newly acquired foreign principals in Item 9 the following:

- Exhibit A⁶ Yes No inapplicable
- Exhibit B⁷ Yes No

If no, please attach the required exhibit.

(b) Have there been any changes in the Exhibits A and B previously filed for any foreign principal whom you represented during this six month period? Yes No

If yes, have you filed an amendment to these exhibits? Yes No

If no, please attach the required amendment.

⁶The Exhibit A, which is filed on Form CRM-157 (Formerly OBD-67) sets forth the information required to be disclosed concerning each foreign principal.

⁷The Exhibit B, which is filed on Form CRM-155 (Formerly OBD-65) sets forth the information concerning the agreement or understanding between the registrant and the foreign principal.

26. EXHIBIT C

If you have previously filed an Exhibit C⁸, state whether any changes therein have occurred during this 6 month reporting period. Yes No

If yes, have you filed an amendment to the Exhibit C? Yes No

If no, please attach the required amendment.

27. SHORT FORM REGISTRATION STATEMENT

Have short form registration statements been filed by all of the persons named in Items 5 and 7 of the supplemental statement? Yes No inapplicable

If no, list names of persons who have not filed the required statement.

The undersigned swear(s) or affirm(s) that he has (they have) read the information set forth in this registration statement and the attached exhibits and that he is (they are) familiar with the contents thereof and that such contents are in their entirety true and accurate to the best of his (their) knowledge and belief, except that the undersigned make(s) no representation as to the truth or accuracy of the information contained in attached Short Form Registration Statement, if any, insofar as such information is not within his (their) personal knowledge.

(Type or print name under each signature)

(Both copies of this statement shall be signed and sworn to before a notary public or other person authorized to administer oaths by the agent, if the registrant is an individual, or by a majority of those partners, officers, directors or persons performing similar functions who are in the United States, if the registrant is an organization.)

h. Tripp
(GRIESSBACH)

Subscribed and sworn to before me at The Army Navy Club Building, Washington, D.C.

this 31st day of August, 19 97

T. L. Burton
(Signature of notary or other officer)
Hilda L. Burton
Notary Public, District of Columbia
My Commission Expires Nov. 30, 1998

⁸The Exhibit C, for which no printed form is provided, consists of a true copy of the charter, articles of incorporation, association, constitution, and bylaws of a registrant that is an organization. (A waiver of the requirement to file an Exhibit C may be obtained for good cause upon written application to the Assistant Attorney General, Criminal Division, Internal Security Section, U.S. Department of Justice, Washington, D.C. 20530.)

UNITED STATES DEPARTMENT OF JUSTICE
REGISTRATION UNIT
CRIMINAL DIVISION
WASHINGTON, D.C. 20530

NOTICE

Please answer the following questions and return this sheet in triplicate with your supplemental statement:

1. Is your answer to Item 16 of Section V (Political Propaganda - page 7 of Form CRM-154, formerly Form OBD-64 - Supplemental Statement):

Yes _____ or No X _____

(If your answer to question 1 is "yes" do not answer question 2 of this form.)

2. Do you disseminate any material in connection with your registration:

Yes X _____ or No _____

(If your answer to question 2 is "yes" please forward for our review copies of all such material including: films, film catalogs, posters, brochures, press releases, etc. which you have disseminated during the past six months.)

John Vaughan
Signature

Aug. 31, 1992
Date

John Vaughan
Please type or print name of signatory on the line above

Attorney
Title

Question 12: on behalf of BDI and DIHT:

1) March 3, 1992

RGIT co-sponsored along with the French-American Chamber of Commerce and the British-American Business Association a breakfast briefing in Washington, D.C. on "The Changing Face of European Transportation." The event gave an overview of Europe's transportation systems, leading transportation companies, European Community law in the transport field and opportunities for investment. The list of participants is attached.

2) March 6, 1992

Dr. Lothar Griessbach, President of RGIT, gave a talk to the German-American Business Association in Philadelphia, PA, on broad issues affecting German-American relations. The talk focused on Germany in the new Europe, a comparison of the European Community and the United States, and German-American relations in general. A summary of Dr. Griessbach's remarks and the following question and answer session is attached.

3) March 13, 1992

As part of a 3-day Austrian-American Manager's Conference, organized by the Austrian Trade Commissioner in Washington, Dr. Lothar Griessbach, President of RGIT, participated in a panel discussing current politico-economic issues. Dr. Griessbach's subject area was public procurement. His remarks were delivered extemporaneously, so we have no written record.

4) March 30-31, 1992

RGIT facilitated a two-day visit to Washington, D.C. by a delegation of German business leaders from the Federation of German Industries (BDI). The purpose of the visit was to visit the World Bank (IBRD) and the International Monetary Fund (IMF). RGIT helped to arrange meetings of the delegation with IBRD and IMF officials, at which current issues - such as the operations and special tasks of the those two organizations in the 1990s, a review of the economic situation in Germany and the world at large, and other topics - were discussed. A list of the German delegation and its agenda are attached. From Washington, D.C. the delegation proceeded to New York City, where it visited the United Nations. RGIT played no role in that part of the trip.

5) April 22-23, 1992

RGIT hosted Heinrich Weiss, President of BDI, during his visit to Washington, D.C. and arranged meetings for him with the following U.S. government officials: (1) Mr. Michael Farren, Under Secretary of Commerce for International Trade, and Mr. Franklin Vargo, Assistant Secretary of Commerce for Europe, (2) Mr. Robert Zoellick, Under Secretary of State for Economic and Agricultural Affairs, (3) Amb. Julius Katz, Deputy U.S. Trade Representative, and Ms. Mary Ryckman, the USTR's Director of

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Multilateral Trade Negotiations. The discussions covered such issues as the ongoing GATT and North American Free Trade Area (NAFTA) negotiations, monetary union in the European Community, trade relations with eastern Europe, and antitrust law in the international context.

At a 100-guest luncheon staged by RGIT on April 23, Mr. Weiss gave a talk about the need for German-American cooperation on the industry and business level. Weiss focussed on two areas in which such cooperation is particularly needed - the further development of the world trading system (i.e. the successful conclusion of the current GATT negotiations) and the rebuilding of eastern Europe. Mr. Weiss did not speak from a written text, but a summary of the speech was distributed as a press release to the following U.S. and German news organizations: United Press, Associated Press, Deutsche Presse Agentur, Die Zeit, Die Welt, Handelsblatt, and the Washington Post, as well as to the World Bank. A copy of the press release is attached.

May 5-6, 1992

RGIT hosted Dr. Ludolf von Wartenberg, Director General of BDI, during his two-day visit to Washington, D.C. and arranged meetings with the following U.S. government representatives: (1) Rep. Sam Gibbons, (2) Sen. John Danforth, and (3) Amb. Thomas Niles, Assistant Secretary of State for European and Canadian Affairs. The meetings covered a broad range of issues in German-American relations including the GATT negotiations, economic policy toward eastern Europe, the future of the European Community, and the need for German-American cooperation. Dr. von Wartenberg also participated in a roundtable discussion at the Center for Strategic and International Studies (CSIS).

In addition to the above activities, Dr. von Wartenberg delivered two speeches. The first was at a luncheon hosted by the Council of Foreign Relations and the Congressional Study Group on Germany, which includes members of the Senate and the House of Representatives involved in German-American affairs. The address was entitled "Germany and Europe: Economic and Political Challenges for the Nineties" and covered such topics as European Community integration and expansion, its policy toward eastern Europe, Germany's role in the EC, and the EC-USA connection. The second speech, entitled "The Economic Development in Eastern Europe: Assessment and Role of German Industry," was delivered at a breakfast forum sponsored by the U.S. Chamber of Commerce. It surveyed the politico-economic landscape in the former east Bloc countries. Copies of both speeches are attached.

May 15, 1992

Dr. Lothar Griessbach, President of RGIT, was interviewed on the International Trade Talk segment of Small Business Digest, a weekly television show in Maryland, concerning the opportunities for small U.S. companies to do business in Germany.

June 11, 1992

RGIT co-sponsored along with the British-American Business Association and the French-American Chamber of Commerce a breakfast seminar presenting a survey by

KPMG Peat Marwick of foreign-owned companies in the Washington area. The survey focused on such issues as growth and capital investment, location, employment, and performance to help expand the informational base for foreign investors.

July 28, 1992

RGIT hand-delivered to the U.S. Internal Revenue Service the written comments of German industry (BDI and DIHT) to the proposed regulatory changes in Section 482 of the Internal Revenue Code, which would affect the taxation of multinational companies by altering the rules on intercompany transfer pricing and cost sharing arrangements. A copy of the comments is attached.

ATTACHMENT TO QUESTION 15

Expenses incurred from February 1, 1992 through July 31, 1992 :

May 22, 1992	The Carlton Hotel (Function on April 23, 1992) (See attachment)	\$8,762.15
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<u>Total Expenses</u>		<u>\$8,762.15</u>
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The Carlton

AN ITT SHERATON LUXURY HOTEL

BILLING DATE

05/06/92

STATEMENT

PAGE 1 923 16th Street and K Street, N.W. Washington, D.C. 20006
(202) 879-6941 FAX (202) 638-4231 Telex 440650

115837

GERMAN INDUSTRY & TRADE
ATTN: MS IRENE HARRIS
1 FARRAGUT SQUARE, N.W.
WASHINGTON, DC 20006

PLEASE INDICATE
AMOUNT ENCLOSED

\$

ACCOUNT NO.

4

TO ENSURE PROPER CREDIT PLEASE DETACH AND RETURN WITH YOUR REMITTANCE.

GERBQZ

DATE	CODE NO.	TICKET NO.	EXPLANATION	CHARGES	CREDITS
1992					
APR23	161	0654306	BANQUET	5100.00	
APR23	161	0654306	BNQT MISC	514.25	
APR23	161	0654306	BANQ BEVG	1298.90	
APR23	161	0654306	BEVG LABOR	170.00	
APR23	161	0654306	TAX	591.19	
APR23	161	0654306	BQT SVCCHG	1087.81	
				<i>Paid</i>	<i>5/22/92</i>
				<i>CK</i>	<i>3217</i>
				<i>Beleg</i>	<i>426</i>
					<i>B</i>
ACCOUNT NO.	PREVIOUS BALANCE	CURRENT CHARGES	PAYMENTS-CREDITS	AMOUNT DUE	
4	.00	8762.15	.00	8762.15	

BILLING DATE

05/06/92

PAYABLE UPON
RECEIPT GERBQZ

44 04/29/92



The Carlton

AN ITT SHERATON LUXURY HOTEL

923 16th Street and K Street, N.W. Washington, D.C. 20006
(202) 879-6941 FAX (202) 638-4231 Telex 440650

115837

For any questions regarding this statement please contact our Accounts Receivable Supervisor.
If payment has been submitted prior to receiving this statement, please disregard.

A/E

THE FRENCH-AMERICAN CHAMBER OF COMMERCE THE BRITISH-AMERICAN BUSINESS ASSOCIATION THE REPRESENTATIVE OF GERMAN INDUSTRY & TRADE

THE CHANGING FACE OF EUROPEAN TRANSPORTATION
March 3, 1992

Francoise Adams, Embassy of France	Pat Karhuse, British American Business Association
Roy Barbee, Mercer Management	Barbara Kline, Textron
Samuel H. Black, Ginsburg, Feldman and Bress	David M. Konschnik, Interstate Commerce Commission
Philip Blackshaw, EMTIN World Bank	Karen Kostick
Robert W. Blanchette, President French-American Chamber of Commerce	Alice Kriz, French American Chamber of Commerce
Bob Braden, Agency for International Development	Elaine Kunzel, World Trade Transport Corporation
Claude Bureau, Eurencam	Bill Lacey, Telecom Solutions, Inc.
Mary T. Carpenter, Gerst, Heffner, Carpenter & Podgorsky	Arnold Levine, U.S. Department of Transportation
Susan C. Chaires	Roland Machenaud, Soule Corporation
Andrew M. Danas, Grove, Jaskiewicz and Cobert	Pierre Marcel, Soule Corporation
Lisa Dinackus, American Institute of CPAs	Robin Markowitz, Paine Webber-Mitchell Hutchins
George J. Donovan, Smiths Industries	James T. McQueen, U.S. Department of Transportation Federal Railroad Administration
Gilbert Dubois, Delegation of the European Community	Marc E. Merdler, P&O Containers
Robert D. Eaglet, Eaglet International Associates	G. Paul Moates, Sidley & Austin
Kevin R. Eaglet, Eaglet International Associates	Norman R. Mowbray, Aviation Education Partnership
Edward M. Emmett, Interstate Commerce Commission	Tim Murphy, Mercer Management
Olivier Fainsilber, Mercer Management (London)	Niels Nielsen, Mercer Management
Thomas F. Ferrara, U.S. Department of Transportation Federal Railroad Administration	Dan O'Connor, Bank of Boston
David Field, Washington Times	Angela Reitmaier, Fort & Schlefer
Ronald Flagg, Sidley & Austin	Carolyn M. Rhoads, Accuracy in Media
Brandon Fried, Adcom Express	Siegbert Schacknies, U.S. Department of Transportation Federal Highway Administration
William Gelston, U.S. Department of Transportation Federal Railroad Administration	Christopher Shinkman, Georgetown University
Anna Gowans Young, American Institute of CPAs	Julie G. Six, Sante Systems, Inc.
Alice Gran, Fort & Schlefer	Craig Stevens, Foster Partners
Bill Harsh, Mercer Management	Robert V. Vasquez, P&O Containers
Ian Harvey, Bank of Boston (London)	John Vaughan, Representative of German Industry
Susan Hess, Framatome USA, Inc.	Eric Voinot, Graham & James
Harrison Hutson, Fort & Schlefer	Leo Welt, German-American Business Council
Aidan Jones, Graham & James	Jeremy Zissman, Overseas Connections, Inc.
	Fred Zobrist, U.S. Agency for International Development Office of Capital Projects

GERMAN-AMERICAN BUSINESS ASSOCIATION
PRESENTATION BY DR. LOTHAR GRIESSBACH,
REPRESENTATIVE OF GERMAN INDUSTRY AND TRADE AND
MEMBER OF GERMAN CHAMBER OF COMMERCE

SUMMARY OF GERMAN-AMERICAN TRADE RELATIONS

This is a summary of a presentation by Dr. Lothar Griesbach to the German-American Business Association on March 6, 1992. Dr. Griesbach's comments were general reflections on the situation in Germany, Europe and America.

"Germany does not face too many problems which are not also entirely European. Some of which are the migration of peoples all over Europe, influx into Germany but also North Africans into France for instance. The tax and financial base and the terms of trade are dependent on the development of the European environment, in particular the new uniform financial regime. Another example is the Japanese challenge. The proposed solution by France and Italy, to restrict Japanese imports for automobiles for instance is a striking example. European industry in general will only survive by competing. The German voice in this context was not strong enough to prevent the European Community from accepting restrictions. The situation is similar as far as the common agricultural policy is concerned. Germany, in particular German industry for now does not prevail with its opinion that the CAP is both harmful for the EC and in an international context.

While Germany's economic influence in the European Community will remain significant, programs and solutions will have to be adjusted to the needs and demands of other European partners."

Dr. Griesbach addressed his next comments to the comparison of an integrated European community to the United States. Some people have said that the integration of Europe will lead to the "United States of Europe." Dr. Griesbach indicated that the integration of Europe will not lead to another United States of America. The distinctions between a United Europe and the United States can be seen from an examination of Europe's institutions. The current mechanism for integrating Europe does not provide for the enforcement of policies. The European regulations will have to be policed in each member state by the particular member state. In short, there is no unified European executive power. In addition, an examination of foreign policy and security/defense policy reveals that the current system for integrating Europe provides no jurisdiction over these policies. In summarizing his comments concerning the comparison of Europe to the United States, Dr. Griesbach indicated that there will be a movement toward centralization, but the process will evolve quite differently from that of the United States.

If some common facts would be tackled

Next, Dr. Griessbach directed his comments to German/American relations. He stressed that German/American relations should really be thought of as European/American relations. Dr. Griessbach stated that relations would improve greatly ~~if several problems could be resolved. In citing examples of these problems, Dr. Griessbach cited the following:~~

- There appears to be a lack of attention by people in Germany to the need for better German/American relations. While the attention is not there, there is nevertheless a consensus that the relationship needs additional attention.
- There needs to be a policy of cooperation concerning the environment. The United States government and industry blame each other for numerous problems with environmental concerns. Meanwhile, the attitude in Germany is that ~~the environment is not a high priority since the Americans don't seem to care to address it.~~ An integrated environmental policy needs the cooperation of all parties.
- There needs to be cooperation with regard to research and development. An example of the type of cooperation Dr. Griessbach was referring to is a coordinated space exploration program.
- ~~There needs to be greater cooperation with regard to social systems.~~ Dr. Griessbach indicated that the United States social security system was patterned after the social security system in Germany during the 1930's. While the two social systems evolved differently, the two countries could benefit from an attitude of cooperation. *exchange of ideas*
- ~~There needs to be a comparative study of the law governing the two countries. There needs to be a means of resolving conflicts between the respective systems of law to facilitate business transactions.~~ *very little if any*

In conclusion, Dr. Griessbach commented that what he was talking about was "people." German/American trade relations go well beyond business. ~~To achieve enhanced trade relations, people ~~will~~ have to assume a role which goes beyond business, because business's role is simply buying and selling. It is imperative that the role that is assumed is not purely a political role.~~ *Individuals carry any form of cooperation.*

QUESTION AND ANSWER PERIOD

1. Dr. Griessbach was asked what will happen at GATT (General Agreement on Tax and Tariffs)?

Answer: Nobody knows. It is a difficult task to track the negotiations. Certainly, a stumbling block is agriculture.

-3-

2. What are the implications to Germany of a common European currency?

Answer: A common currency is not a cash outlay as unification involved. Nobody expects the European common currency to have the stability of the German mark. People look upon this as a trade-off of a less advantageous currency position in exchange for a larger and better economic community.

3. How will the absorption of technology scientists from the USSR affect Europe?

Answer: There is no need for nuclear scientists in Europe. A substantial number of Russian scientists will not be employed by the West, and Western Europe will not have a significant role in employing those scientists who do migrate.

Teilnehmer (Stand: 10.03.92)

Peipers, Dr. Harald	Mitglied des Vorstandes Hochtief AG, Essen
Frerk, Dr. Peter	Mitglied des Vorstandes Volkswagen AG, Wolfsburg

Beck, Karl	Direktor ABB, Mannheim
Becker, Fritz	Spartenleiter KHD Humboldt Wedag AG, Köln
Esser, Jakob	Abteilungsleiter BDI, Internationale Entwicklung
Giersch, Dr. Helmut	Mitglied des Vorstandes MAN, München
Hesse, Joachim	Direktor Siemens, Erlangen
Hoene, Friedrich	Verantwortlicher für internationale Finanzierungsinstitute Bayer, Leverkusen
Kühnel, Dr. Wolfgang	Geschäftsführer AG Großenlagenbau im VDMA, Frankfurt
Lange, Martin	Direktor PREUSSAG AG, Hannover
Liesmann, Ekkehard	Direktor Deutsche Babcock, Oberhausen
Ludwig, Hans-Joachim von	Mitglied des Vorstandes SEL, Stuttgart
Müller, Harald	Referent Bundesverband der Deutschen Industrie
Pabst, Klaus	Prokurist Mannesmann, Düsseldorf
Schweinshaupt, Klaus-Jürgen	Direktor KHD, Köln
Voigtländer, Hans	Direktor Lurgi, Frankfurt
Wiedenhues, Heribert Jürgen	Vorsitzender der Geschäftsführung Krupp Industrietechnik, Duisburg

Stand: 11. März 1992

Programm für die BDI-Delegation in Washington, D.C.
vom 30.-31.3.1992

Die Gesprächstermine in der Weltbank am 30. März und am Nachmittag des 31. März finden im Konferenzsaal D 1356 statt (Adresse: 701 19th Street, N.W., Washington, D.C. 20433)

Der Internationale Währungsfonds hat den Raum 2-530 für den Vormittag des 31. März reserviert (Adresse: 700 19th Street, N.W., Washington, D.C. 20431)

Montag, 30. März 1992

- 9.00 Uhr Zusammenkunft mit dem deutschen Exekutivdirektor bei der Weltbank, Dr. Fritz Fischer, und dem Stellv. Exekutivdirektor, Harald Rehm
Weltbank-Konferenzsaal D 1356
- Generalthema:
Rolle und Aufgaben der Weltbank in den 90er Jahren. Schwerpunkte der Weltbankpolitik und besondere regionale Herausforderungen
- 9.30 Uhr Informelle Diskussion mit Weltbankpräsident Lewis Preston
Zimmer-Nr. E 1227
- 10.00 Uhr D. Joseph Wood, Vizepräsident für Südasien
- 10.45 Uhr Kaffeepause
- 11.15 Uhr Edward Jaycox, Vizepräsident für Afrika
- 12.00 Uhr Carlo Koch-Weser, Vizepräsident für Mittleren Osten und Nordafrika
- 13.00 Uhr Mittagessen, gegeben vom Deutschen Exekutivdirektor bei der Weltbank,
Dining Room "A" im D-Gebäude.
Guest Speaker: Lawrence Summers, Chief Economist der Weltbank

Deutsches Weltbankbüro	Tel.(202) 458-1183	Fax: (202) 477-7849	Zi.Nr. E 1325
Deutsches IWF-Büro	Tel.(202) 623-7262	Fax: (202) 623-4960	Zi.Nr. IWF13-16
Deutsche Botschaft	Tel.(202) 298-4000	Fax: (202) 298-4249	
Hay Adams Hotel	Tel.(202) 638-6600	Fax: (202) 638-2716	

- 14.30 Uhr **Shahid Husain, Vizepräsident für Lateinamerika und Karibik**
- 15.15 Uhr **Ernest Stern, Managing Director
Finanzierungsfragen der Weltbank**
- 16.15 Uhr **Kaffeepause**
- 16.30 Uhr **Keremy James Warford, Senior Advisor - Economics, Umweltabteilung
Weltbank und Umwelt**
- 17.30 Uhr **Russel J. Cheetham, Direktor für die Länder der ehemaligen Sowjetunion
(GUS) und der baltischen Staaten**
- 19.30 Uhr **Buffet-Empfang in der Deutschen Botschaft, gegeben von Herrn Gesandten
Fritjof von Nordenskjöld
Adresse: 1900 Foxhall Road, Washington, D.C.**

Dienstag, den 31. März 1992

- 9.15 Uhr **Zusammenkunft mit dem deutschen Exekutivdirektor beim IWF, Dr. Bernd
Goos, sowie seinem Stellvertreter, Dr. Bernd Esdar, Zimmer-Nr. IMF 2-530**
- 10.00 Uhr **Michael Mussa, Economic Counsellor and Director, Research Department
Einschätzung der Weltwirtschaftslage vor dem Hintergrund des World Eco-
nomic Outlook (WEO)**
- 11.00 Uhr **Kaffeepause**
- 11.15 Uhr **Massimo Russo, Director, European Department
Einschätzung der deutschen und europäischen Wirtschaftslage (sowie evtl.
Meinungsaustausch über Osteuropa)**
- 12.30 Uhr **BDI-Mittagessen im Internationalen Währungsfonds, Dining Room Nr. 3
Guest Speaker: Dr. Horst Schulmann, Managing Director, Institute of
International Finance**
- 14.30 Uhr **Judhir Parmar, Vice President, Investment Operations, und Wilfried
Kaffenberger, Vice President, Portfolio And Advisory Operations Funktion der
International Finance Corporation (IFC) im Rahmen der Weltbankgruppe,
Konferenzsaal D 1356**
- 15.30 Uhr **Yoshio Terasawa, Executive Vice President, MIGA
Entwicklung und Erfahrungen der MIGA seit Aufnahme ihrer operativen
Tätigkeit**

REPRESENTATIVE OF GERMAN INDUSTRY AND TRADE
ONE FARRAGUT SQUARE SOUTH, N.W.
WASHINGTON, D.C. 20006

ASSOCIATION OF GERMAN
CHAMBERS OF INDUSTRY AND COMMERCE
DIHT

(202) 347-0247
TELECOPIER: (202) 628-3685

DELEGIERTER DER DEUTSCHEN WIRTSCHAFT

FEDERATION OF GERMAN
INDUSTRIES
BDI

Heinrich Weiss, Chairman of the Federation of German Industries (BDI)
in Washington D.C., April 23, 1992

Press Release

BDI Chairman Heinrich Weiss renews German industries readiness to increase German American cooperation.

Referring to President Bush's visionary appeal to develop a new world order, Heinrich Weiss, Chairman of the Federation of German Industries, BDI, in a luncheon address in Washington D.C., explored the tasks and opportunities for increased German American cooperation. The continuing stalemate on GATT after yesterday's US-EC summit necessitates even closer industry cooperation.

Acknowledging the pressing German preoccupation with the reorganization and rebuilding of eastern Germany, Weiss pointed out two current events in which German and U.S. industry have a genuine role and responsibility: the further development of the world trading system and the stabilization and economic development of Eastern Europe.

The current negotiations and disturbing quarrels about agriculture distract from the fact, that GATT was, and will continue to be, the sole organization able to subject world trade to the discipline of multilaterally agreed principles. A strengthening of its statutes into a genuine constitution for world trade, including effective dispute settlement procedures, is a vital goal which must continue to be pursued. Weiss reiterated his support for GATT Director General Dunkel's compromise proposal, in spite of German industry's reservations about certain important details, e.g. lagging protection of intellectual property and insufficient coverage of the service sector.

Mastering technology amidst spiraling World population growth, and a plethora of infant democracies in vast parts of the world, all present gargantuan tasks, said Weiss, in which American leadership and commitment are as indispensable as in the victorious fight against Communism. Germany is willing to contribute its share of financial and human resources to these endeavors. Germany's political influence and economic powers however, are shaped by the role of Germany within the European Community.

As far as the engagement of German industry on international matters is concerned, Weiss pointed to the BDI's efforts to bring the GATT reform process to fruition, its commitment to help facilitate international participation in the economic development of eastern Germany and eastern Europe, and its responsible contribution to the discussion of environmental problems and regulations.

Major efforts should be made to assess and further increase cooperation. This includes cooperation with the U.S. on future technologies, a field which this far has little to show that is equal to the task.

Washington, D.C., April 23, 1992

Dr. Ludolf v. Wartenberg

Director General and Member of the
Presidential Board of the
Federation of German Industries (BDI)

"Germany and Europe:
Economic and Political Challenges for the
Nineties"

Some key points and explanatory statements

Council on Foreign Relations
and
Congressional Study Group on Germany

New York/Washington, 4th/5th May 1992

Point no. 1

The European Community has proved its worth. It must now ensure that economic and political development proceed at parallelly, if the vision of West European integration is to become reality.

The marathon run heading towards the EC internal market has now entered the finishing stretch - but already a whole new track lies before us, with the Political Union of the states of Western Europe as the goal.

The BDI is backing this project. In political terms it is the logical consequence of the common market, whose advantages - the free movement of goods, services, persons and capital - are already obvious today. For consumers and business enterprises this Europe has already become reality, as is illustrated by the close ties existing in investment and trade between the EC countries. 55 % of German exports go to the other members of the Community of Twelve, and in recent years two-thirds of German foreign investment has been directed to the EC.

S. Anlage 1

More countries are seeking EC membership, and non-European industrialists and politicians are looking to enter into consultations with European political representatives and European business organizations.

The upheavals in Eastern and South-East Europe have brought home to us once again how important it is for Western Europe to be equipped with a sound political roof. The common currency is scheduled to be introduced by 1999 at the latest. But it still needs to be put on a sound political footing. Monetary and political union must proceed in tandem.

For German industry, a stable currency remains more important than a common currency. Stability has been anchored in the Maastricht treaty, at least in form. But a true currency union would seem to require more than certain forms of wording in a treaty. It needs truly common structures.

True, the history of the European Communities shows that difficult decisions have seldom been taken in one daring leap. However, from the German point of view Maastricht fell short of our expectations/hopes: a deadline of 1999 was fixed for monetary union, but at the political level there is no such agreement of comparable weight. It is now essential to make full use of the political impetus provided by Maastricht so that integration of economic and monetary policy can move onwards to include integration of foreign, security, and interior policy.

Point no. 2

**The European Community must be open,
economically and politically**

With the integration of the EC, the Member States are enhancing their cooperation, which must now also become more coherent. But this Europe must not confront its partners and friends in the world as a self-contained club. Europe must continue to be open to the world. German industry, in particular, has a vital interest that it remains so. European industry as a whole must give its backing to fair competition and open markets.

S. Anlage 2

~~That is why the BDI has sharply criticized the inclusion of an article on industrial policy in the Maastricht treaties. This provision might be used as a legal basis for specific EC industrial policy projects.~~

~~Germany has always been numbered among those in the European Community who have consistently advocated that the state should exercise restraint and permit the necessary freedom of manoeuvre for private enterprise. After Maastricht we are concerned: how will we hold our own against~~

~~The European Community is big, but not nearly big enough to be able to do without free world trade.~~

German industry rejects protectionism in all its forms. We face up squarely to international competition, but competitive conditions must be fair and approximately equal. In my opinion, there must be an internationally agreed response to subtle methods of conquering markets, such as used by Japan. This means especially that GATT must be strengthened. We are sceptical on the efficiency of the unilateral approach of the US towards Japan. Japan must become a team player in international trade and shoulder its share of responsibility, instead of remaining an aggressive opponent. I feel this is a truly common vital interest for both the USA and Europe.

The EC is even more than other regions of the world dependent on political cooperation and economic openness. That is only too frequently forgotten, both inside and outside the Community - which brings me to my third point.

* wobei unter Vertiefung verstanden wird: Stärkung der Kompetenz und Entscheidungsstrukturen der Gemeinschaft.

Point no. 3

West European integration and East European rapprochement: European Political Union as the roof of a common house for all Europeans?

Developments in the European Community are a major force of attraction for all neighbouring European countries, far beyond the economic sphere. The European Community is now confronted with the alternative of whether to deepen or widen its makeup.

Diese Entwicklungen sind keine Gegensätze, sondern haben gleiches Gewicht.

*

~~Europe must remain open. On the other hand, the Community's extension is inevitably limited by the need to maintain and improve its decision making capabilities. Everything else would be counterproductive.~~

~~I am afraid a united Europe extending to the Urals would mean a relapse into old nationalisms. The current debate on the ratification of the Maastricht treaties gives a taste of what might come. Successful integration might all of a sudden turn~~

into disintegration. Against the backdrop of German experience I must strongly warn against such utopian schemes.

S. Anlage 3

We are not shutting the door in the face of Eastern Europe. We must begin with economic association. The EC has already concluded agreements to this effect with Poland, Hungary and the CSFR. However, a different approach must be adopted to help the former USSR. It presents a unique problem, which requires internationally coordinated aid programmes with contributions from all industrial nations. BDI Chairman Heinrich Weiss is at present trying to bring home to industrialists and policy-makers in Tokyo that the CIS countries are also Japan's neighbours. This means that Japan must be at least as interested as Germany/Europe and the United States in a successful transformation of the former Soviet Union into an economically prosperous and democratically structured union of independent states. Hopefully, the economic summit in Munich will provide the necessary impetus.

...

Point no. 4

Germany: a partner in the EC

Despite its enormous problems in achieving economic and social unity in the wake of unification, Germany remains the strongest economic power in the EC, which means that its responsibility in Europe and the world is growing.

Germany will not and cannot abuse its increased leverage. Germany is legally bound and committed to operate in a consensus with its partners (for instance, Treaty of Rome, NATO, Maastricht protocol). What we can say is that Germany is only just beginning to redefine its political role - with caution and rather timidly. The Gulf war occurred in the middle of the process of German unification. The Yugoslav crisis has caught not only Europe on the wrong foot. Both examples show that the United States' political leadership - through constructive engagement - is not made superfluous by European integration. On the contrary, it is as necessary as ever.

Germany will play its enhanced role in the process of European integration with a strong sense of responsibility. German industry remains firmly committed to Germany's integration into a democratic Europe. Germany does not aspire to a unilateral leadership role.

The successful conclusion of the GATT Uruguay round, long overdue, is of interest not only to Germany or France, but to the United States as well. Governments and parliaments must be made to understand that our common future is crucially dependent on internationally agreed, reliable rules for world trade. We absolutely have to compromise on the issues which are still controversial at this time.

Point no 5

Europe needs the United States – without the U.S. Germany cannot fill out its role in Europe

Without strong U.S. commitment in Europe it would not have been possible to overcome the cold war and to bring East and West closer together.

Moreover, the United States has indicated its support for European integration from the outset, recognizing, I think, that Europe may ultimately emerge from the conglomerate of European nation states as a true political union. After the Maastricht decisions on Economic and Monetary Union, it will require a major effort – including continued encouragement from the United States – to pave the way for a politically united Europe as well. Political union in Europe, however, will never be the equivalent of that in America. This must be understood on both sides of the Atlantic to avoid false expectations.

The world has changed. The foundations of our relations with the United States are widening. This is perhaps even more true for Germany than for Europe as a whole.

The EC-U.S. relationship is based on full partnership in the pursuit of common political, security and economic interests.

Be it from the German, European or American perspective, U.S. withdrawal from Europe would not make the world a safer place.

Even after the collapse of communism we are hardly living in a perfect world. New risks have made it, if anything, even more complex and complicated.

Now I have talked about Europe. In conclusion, I would like to remind us that our efforts in Europe will have to be integrated into our relationship with the U.S. We jointly have to find answers to the following questions:

Questions:

- What will become of Eastern Europe?
Where is Latin America going?
- How can we reduce the gap between North and South, and how shall we cope with population growth?
- How can we master global environmental problems? (In the view of German industry, U.S. participation in the draft of an international climate convention at the UNCED in Rio next month is absolutely essential).

I leave you with these questions.

It seems that we have a lot of work ahead of us.

RGIT

APR 30 1992



Bundesverband der Deutschen Industrie e.V.
Gustav-Heinemann-Ufer 84-88
Postfach 51 05 42
5000 Köln 51 (Bayenthal)
West Germany

Telefax: (0221) 3708-730
Telex: 8 882 601
Telefon: (0221) 3708-00
Durchwahl/Direct: (0221) 3708-596

TELEFAX

Köln, 30.4.92

Fax Nr./no. 001202 16283685 Seiten: 20
 Pages:

An/to: Delegierter der Dt. Wirtschaft

z.Hd./Attn.: Herrn Dr. Griebach

Von/from: Frau Sprick

Betr./Subject: _____

Kurznachricht/Message:

Wie besprochen

n. A. Switz

(Separat : Anlagen Wastenberg Rede)

Anlage 1)

Rapid progress within the Community has increased its attractiveness to countries outside and henceforward its responsibility for international developments. While the EC's jurisdiction for its member states on trade policy is established, internal economic policies and political issues such as foreign and security policy are still outside its jurisdiction. At the same time, the expectations of other countries with respect to increasing EC involvement and securing EC assistance - in Eastern Europe and in Yugoslavia for instance - have grown beyond the potential of the EC.

It is easy to understand why the common market needs joint economic policies and coordinated or joint fiscal policies. Indeed the currency union is scheduled to be accomplished by 1999. We will have a Central European Bank and uniform monetary and fiscal policies. It follows that financial and social policies should be decided by the community.

Finally, as the internal borders disappear other major political tasks such as crime prevention and immigration policies should be decided and implemented jointly.

Right now the EC is not equipped to deal with these areas. Moreover, the reservations evident during the Maastricht summit indicate the reluctance of the member states to renounce their

sovereign rights to deal with these issues themselves.

German industry is convinced that the steps taken at Maastricht, will necessarily have to be supplemented by additional measures. We feel that:

- the rights and jurisdiction of the European parliament have to be substantially increased
- a federal structure leading to a political union of the European States is needed.

Nevertheless, the treaty of Maastricht must be ratified by the member states. We hope that its implementation will create sufficient political dynamics to bring the political institutions along.

Anlage 2)


It is by no means certain that the European Community will follow this path. Opinions among the European member states and their industrial sectors vary a great deal.

In order to avoid any temptations the BDI objected to the inclusion of an article on industrial policy in the Maastricht treaty. This article charges the Community with increasing the competitiveness of European industries.

German industry endorses this goal only insofar as it involves the creation of macroeconomic policies favoring growth and competition. We are convinced that the existing policy instruments of the Community are quite sufficient to do that.

By giving industrial policy a place in the EC constitution, as the treaty of Maastricht does, the door is opened for state-directed structural policies. We all know too well that there are tendencies in some of our member states to intervene in and to protect national industries. The spectre of subsidization and intervention looms.

German industry is strictly opposed to these policies. Germany has always objected to such initiatives and opted for increasing the freedom of manoeuvre for industry. This position is based on the experience that the only way to survive internationally is under the pressure of international competition.

The European Community is rather large, but not quite large enough to renounce international free trade. German industry faces ... 

Anlage 3)

Deepening means increasing the jurisdiction of the EC and improving decision-making by the Community.

German industry attributes equal weight to the importance of enlarging membership and

strengthening the EC's institutions. Both are equally important, but we must proceed cautiously and incrementally.

There is a broad consensus in the EC on including the EFTA countries. Austria, Switzerland, Liechtenstein, Sweden, Norway, Finland and Iceland should become full members. Last year the EC signed a treaty with these countries, which still has to be ratified, establishing free trade, freedom of movement and a wide range of common laws. However, the EFTA countries retain their sovereignty and are not participating in the decision-making of the European Communities.

Austria, Sweden and Finland have formally applied for membership in the EC. Norway and Switzerland will probably follow shortly. They will begin negotiating with the EC early next year and we don't anticipate any major complications. Moreover, it is desirable that the EFTA group joins into the discussion on political union as soon as possible. EFTA's economic policies and political goals are for the most part identical with those of Germany.

More difficult to accommodate is the desire of Eastern European countries, led by Poland, Czechoslovakia and the Baltic States, to become members. Rumania, Bulgaria and several states of the former Soviet Union are seeking some form of association with the EC as well.

They are looking towards Western Europe for help and orientation, which they consider essential for their economic development and political stabilization. This confronts the Community with responsibilities of historic proportions.

Diverse formulas are required. Agreements of association have been concluded with Poland, Czechoslovakia and Hungary, providing them with a perspective toward the ultimate goal of full membership. In essence, the association agreements establish a free trade zone for industrial products and broad political and cultural cooperation. The three associated countries are also committed to adjust their legal and economic structures to conditions within the European Community. This should help to increase their attractiveness for private investment. The process will take a long time, but the path is fairly clear. Similar, though not necessarily identical, agreements of association will have to be developed for the Baltics and Southeastern Europe.

For the states of the former Soviet Union, on the other hand, association agreements would not work. Different approaches are in order here.

REPRESENTATIVE OF GERMAN INDUSTRY AND TRADE
ONE FARRAGUT SQUARE SOUTH, N.W.
WASHINGTON, D.C. 20006

ASSOCIATION OF GERMAN
CHAMBERS OF INDUSTRY AND COMMERCE
DIKT

(202) 347-0247
TELECOPIER: (202) 628-3685

FEDERATION OF GERMAN
INDUSTRIES
BDI

DELEGIERTER DER DEUTSCHEN WIRTSCHAFT

Speech by
Dr. Ludolf v. Wartenberg
Director General of the Federation of
German Industries

May 1992

"The Economic Development in Eastern
Europe: Assessment and Role of German
Industry"

(held on May 6th at the International Breakfast Forum sponsored by
the U.S. Chamber of Commerce)

'Ladies and Gentlemen,

Let me begin by stating two facts:

1. Our shared principles and values of democracy, the rule of law and free-market economics have won the day against Marxist/Leninist ideology, authoritarian political thinking and centrally planned economies. People in Central and Eastern Europe as well as in Latin America, Africa and the developing countries in Asia are all coming out in favour of economic

liberalism on the American and European model in their own countries and regions.

The cold war, barbed-wire fences and walls like the one in Berlin belong to the past. We in Germany have not forgotten the decisive role the American people and President Bush played on the way to German unification, and for this we owe you a debt of thanks and appreciation. I would like to set out our ideas on "The economic development in Eastern Europe: assessment and role of German industry" in the form of a ten-point paper:

Point no. 1

The challenges to the Americans, Germans and the other western industrial nations have become greater rather than smaller. In the past, East and West were divided by barbed-wire fences and walls. Today they are divided by a deep economic, social and psychological gulf. The development process in Central and Eastern Europe towards democratic pluralism, the rule of law and free-market economics has now become irreversible. But we should not underestimate its risks.

The extremely rapid change from an authoritarian political system with central economic planning to pluralistic democracy, the rule of law and free-market economics is bound to have a serious impact on the people in the countries concerned, as well as on the international community at large. The days are gone when East-West cooperation was confined to strategic agreements and marginal trading relations. Today it is no longer delegations that get together, but people with greatly varying ideas, experiences, worries and wants. Representatives of the Western market economies characterized by political stability are confronted with poverty, instability, and a lack of orientation in the former Eastern Europe.

Yet there is also reason for hope, in that it has so far been possible to avoid serious confrontation, leaving aside the outburst of ethnic conflicts that had been smouldering for quite some time already. The fact that the Hungarians, Czechs, Slovaks and Poles have managed, within just two years, to make the transition to pluralistic democracy and free-market economics an irreversible process is an achievement which commands respect and provides some confirmation that even an extremely difficult change of system can be successful.

Point no. 2

Eastern Europe is looking westward and the West is looking eastward more than was the case in the past. A Europe without frontiers is a vision that might become a reality around the turn of the millennium.

The challenge will be to level major income differentials, to bridge the deep technological gap, and to dismantle psychological barriers. The very magnitude of this challenge requires close cooperation among the Western industrial nations and a joint effort to continue and intensify successful U.S.-German cooperation at all levels.

Point no. 3

German business is the most important western trading partner for the East European countries. Before the upheavals in the East the old Federal Republic accounted for roughly 20 percent of the OECD's trade with Eastern Europe. The former GDR, for its part, played a major role within COMECON. Unified Germany is living up to its responsibility with respect to the new situation in Eastern Europe, although cooperation between Germany and that region is seriously impeded by restructuring in the Community of Independent States (CIS) and in the new German Länder.

In 1991 German exports to Eastern Europe were 29 percent down from 1990; German imports fell by 10 percent. The share of trade with Eastern Europe (including the USSR or CIS) in our total foreign trade declined from 7.2 to 5.4 percent.

A closer look at the figures shows that most of this decline is due to a dramatic slump in trade between our new federal states (the former GDR) and Eastern Europe. Their trade with the former Soviet Union has dropped by half, with Poland by 63 percent and with Romania and Bulgaria by 90 percent.

Whereas the trade of the new federal states in 1990 still accounted for 5 percent of overall German trade, this share was no more than 2.2 percent in 1991.

Point no. 4

The leaders in bilateral trade with Germany are the reforming countries of Poland, Hungary and Czechoslovakia. Their consistent trade opening policies ensure their rapid integration into the international division of labor.

Take Poland as an example. The transition from a centrally planned economy largely sealed off from the West to an open market-based system has produced initial results: within only two and a half years Poland has managed to reorient its trade relations to the West, away from its heavy dependence on the Soviet Union.

Germany, as a market next door to Poland and Czechoslovakia and as the world's second largest sales market with imports totalling over 430 billion dollars in 1991, has been playing a major role in this process. From 1989 to 1991 Poland almost doubled its exports to Germany, western German exports to Poland increased by as much as 120 percent over the same period, and there is still potential for further expansion. Taking our trade with another neighbouring country, the Netherlands, as a standard, German-Polish trade might well increase tenfold over time.

Point no. 5

German exports to the former Soviet Union dropped by 35 percent to 18.3 billion Deutschmarks from 1990 to 1991. This can be attributed to the breakup of the Soviet Union, to import restrictions imposed by the last Soviet government, and to legal and economic policy uncertainties. German exports would have shrunk even more, had it not been for the guarantees furnished by "Hermes", a state export credit insurance scheme.

Point no. 6

The key to success of the market economy reforms in Central and Eastern Europe is corporate investment from the Western industrial nations. In addition to risk capital, the countries of Central and Eastern Europe need above all management know-how. Last but not least, technology needs to be transferred in order to help these countries to catch up with the West.

A leading problem for the countries of Central and Eastern Europe is the lack of domestic capital - a result of previous mismanagement and the fact that little importance, if any, was attached to private savings. In the CIS, in particular, the savings of millions of people have been eaten up by inflation.

The reformers in Central and Eastern Europe are looking to America and Western Europe for help and advice. Public discussions in the countries concerned give a mixed impression: on the one hand, foreign investment is welcomed; on the other hand, there is also much talk of a threat of excessive control by foreign capital.

Point no. 7

German industry ranks first among foreign investors in Central and Eastern Europe. Despite a relatively high level of investment by German companies the total volume of capital investment is still way short of the reformers' expectations.

German business on its own is unable to meet the gigantic risk capital requirements in Central and Eastern Europe. A significantly higher level of investment by American, Japanese and other West European companies is indispensable to keep development going in Central and Eastern Europe.

In 1990, for instance, German investment in Central and Eastern Europe came to around 184 million Deutschmarks, or 0.6 percent of the total volume of German net transfers to other countries. There should have been a marked rise in 1991 - statistics are not yet available - but investment in Central and Eastern Europe probably still accounts for less than 5 percent of total net capital transfers.

The comparatively high volume of investment by German companies in Czechoslovakia has hit the headlines in the American press. The larger investment projects, for example those of Volkswagen and Siemens, involve European companies that are seeking to take advantage of low wage levels in the CSFR while at the same time capturing the Central and East European market with 400 million people, certainly an attractive market in the medium term.

Point no. 8

American companies are increasingly tapping the Central and East European market through their successful German subsidiaries. Thus, for instance, IBM Germany is developing its activities in Central and Eastern Europe. Opel, a subsidiary of General Motors, recently signed a cooperation agreement with Poland's biggest car manufacturer.

Point no. 9

Hungary, Poland and Czechoslovakia have already done most of their spadework in economic policy, whereas the CIS is only just beginning. There, the preconditions for business cooperation are still lacking. While private business structures are beginning to emerge, a reliable framework of free-market conditions does not yet exist.

Businessmen on the spot, as well as foreign investors, must not be left to solve their problems by themselves. In the former Soviet Union there is an urgent need for reforms to fill the institutional vacuum left by the collapse and to step up the development of market-oriented structures, to create legal certainty and private ownership as indispensable preconditions for private business activity.

It is increasingly my impression that reform politicians in Central and Eastern Europe are confusing free-market economics with laissez-faire capitalism, and that they tend to forget the social dimension of a market economy. Overlooking that dimension would be a mistake, and would inevitably lead to instability and social injustice.

In meetings I attended in the CIS and the reforming countries of Central Europe the people I spoke to frequently referred to Ludwig Erhard, the father of the German economic miracle after the Second World War. They all were amazed when I pointed out to them that Ludwig Erhard was by no means an advocate of laissez-faire capitalism, but that his perception of a social market economy was inspired by the so-called Freiburg school, whose leading economist Walter Eucken developed the doctrine of interdependence between the political and the economic order. These encounters have made it clear to me that we still need to transfer a great deal of know-how with respect to economic policy thinking.

Point no. 10

Stability and economic growth in Central and Eastern Europe require help from the West. America, Japan and Europe all need to lend active support to the difficult systemic changes in that region, especially in the CIS.

The limited resources of the EC and of the U.S. and Japan must be carefully allocated and must primarily be used to promote the build-up of market-oriented economic structures. A self-sustaining development must be put in motion in order to gradually reduce the dependence of Central and Eastern Europe on international financial sources and contributions.

German industry is gratified to note that the western donor countries have agreed to coordinate their assistance more effectively. Here a cautionary word is in order: excessive coordination and too much red tape would impede or even frustrate the efficiency of the aid programs. What is most needed is a major effort to establish modern economic infrastructures in the countries concerned, so that the assistance granted can help people to help themselves, instead of preserving the old structures.

Let me conclude my remarks by saying that the Germans, French, British and Italians, that Europe as a whole - contrary to what I frequently gather from reports in the U.S. media - is not closing itself off in a Eurocentrist movement. This is not the time for national egoism, nor is it the time for regional political and economic isolationism.

With this in mind, the Federation of German Industries is doing everything in its power to help prevent any serious irritation in U.S. - European relations by urging a successful conclusion to the current GATT round. In doing so, we are not reluctant to demand an early reform of the EC's agricultural policy. But U.S. farm policy also needs some reform. We believe that both reforms should be tackled under the auspices of GATT.

This, Ladies and Gentlemen, is important not only for the Europeans and Americans, but also for Eastern Europe and the developing countries. In our

mutual interest, we must link up these countries to the system of the international division of labor. The solution of numerous social and economic problems is crucially dependent on a successful outcome to the Uruguay round.

Thank you for your attention.'

REPRESENTATIVE OF GERMAN INDUSTRY AND TRADE

ONE FARRAGUT SQUARE SOUTH, N.W.
WASHINGTON, D.C. 20006

ASSOCIATION OF GERMAN
CHAMBERS OF INDUSTRY AND COMMERCE
DIHT

(202) 347-0247
TELECOPIER: (202) 628-3665

FEDERATION OF GERMAN
INDUSTRIES
BDI

DELEGIERTER DER DEUTSCHEN WIRTSCHAFT

July 28, 1992

Internal Revenue Service
P.O. Box 7604, Ben Franklin Station
Attn.: CC: CORP: T: R (INTL -0372-88) and (INTL -0401-88)
Room 5228
Washington, D.C. 20004

Re: Proposed Rulemaking Relating to Intercompany Transfer Pricing and
Cost Sharing Regulations under Section 482 of the Internal Revenue Code

Dear Sir or Madam:

On behalf of our parent organizations, the Association of German Chambers of Industry and Commerce (DIHT) and the Federation of German Industries (BDI), we would like to present the following comments on the proposed regulations pertaining to Section 482 IRC as amended by the Tax Reform Act of 1986.

The Association of German Chambers of Industry and Commerce and the Federation of German Industries represent the interests of German industry and commerce and, as such, observe tax law developments in the United States with much interest. Our office - the Representative of German Industry and Trade - represents both of these head organizations in the U.S.

Due to the traditionally close economic relationship between the U.S. and Germany, the proposed regulations with respect to Section 482 would also have an enormous impact on German industry. For this reason, we are taking the liberty of submitting to you the following remarks and requests for changes.

The proposed regulations have greatly alarmed German industry. This applies not only to the regulations on examining transfer pricing but also to the rules for cost sharing arrangements.

In regard to Transfer Pricing, we seriously doubt that the proposed regulations can be carried out in a practical manner and we also seriously doubt that they conform, in substance, to the internationally recognized principles of transfer pricing. We fear that serious confusion would ensue in the future for the practice of international taxation and would result in cases of double taxation. International industry and financial relationships would have to fear heavy tax burdens.

In reference to the Cost Sharing Arrangements, the proposed regulations are so inflexible that they would prevent economically sensible structuring for the financing of inter-corporate research and development programs.

We would like to go into detail on our concerns as follows:

1. Transfer Pricing

Realistically, we believe the proposed regulations on transfer pricing can not be carried out. In addition, we believe that the regulations embody a grave infraction of the internationally recognized Arm's Length Standard.

1.1 Concerns Regarding its Practical Feasibility

Our concerns regarding the practicality of the proposed regulations are focused on the following points:

- Applicability of the regulation in business and administrative practice,
- Realization of companies' obligations to cooperate,
- Obtainability of comparable data on which the IRS would be basing its assessments,
- Disclosure of companies' confidential information.

1.1.1 Concerns Regarding the Adoption of the New Methods of Examination

For transfer pricing of intangible assets, the presently existing regulations would be retracted and replaced with new methods, namely:

- Matching Transaction Method
- Comparable Adjustable Transaction Method
- Comparable Profit Method.

The area of application for these new regulations on intangible assets are much more extensive, since they not only extend to intangible assets in their true sense, but in many cases, to tangible assets. The regulations clearly point out that a further area in the flow of commodities is to be taxed, for example, in cases involving tangible assets with protected trade names. This extension of the regulations has no legal basis in Section 482 IRC and must be fundamentally narrowed.

The proposed obligatory order of sequence of Matching Transaction Method, Comparable Adjustable Transaction Method and the Comparable Profit Method is not based on reality. For the most part, the Matching Transaction Method is already

impractical because it requires an identity of the asset. This occurs only in the rarest of circumstances. The second method, the Comparable Adjustable Transaction Method, is applied to a larger area but can only be used when proceeds fall within the comparable profit interval. As a result, the method of examination for most of the cases will be the third method, namely the Comparable Profit Method.

The central factor in this new regulation is the adoption of the comparable profit interval (CPI). The interval is stipulated as a mandatory measure in all of the methods, except in the Matching Transaction Method. In order to determine the CPI, the examined company's business activities are compared with the equivalent business branch of a third-party company. The relevant Profit Level Indicators are determined through this comparison with the company. The decisive CPI is then derived from this by taking yet another step. If transfer pricing lies outside of the CPI, then it will be adjusted. The most appropriate point is strived for within the CPI to adjust the transfer pricing. This method serves not only the purpose of examining the transfer prices but also in making a binding assessment by the IRS.

In the same way, the aforementioned remarks are also true for tangible assets inasmuch as they are connected to the transfer of intangible assets. For the remaining cases of transfers of tangible assets, the earlier methods, Comparable Uncontrolled Price Method, Resale-Minus Method and the Cost-Plus Method will remain in place but with a basic difference. Neither the Resale-Minus Method nor the Cost-Plus Method are allowable when income does not fall within the CPI. Only the Comparable Uncontrolled Price Method does not require this examination based on the CPI. As with the Matching Transaction Method, the area of application is defined too narrowly.

1.1.2 Concerns Regarding the CPI Concept

We assume the focus of audits in the future will be to examine transfer pricing based on the CPI.

- a) Although the regulation on examining transfer pricing based on the CPI is, overall, very complicated, the underlying concept behind it is very clear:

The CPI concept is based on the assumption that when income from the examined company is adjusted to the comparable income of the third party, then the transfer pricing would be increased in such a way that this company would have the same income as the third party. The corresponding adjustment of the transfer pricing is that price which would also have been agreed upon between third parties.

The assumption is fundamentally incorrect and does not conform to the reality of business. In reality, the incomes of the examined company, as well as the comparable company, depend not only on the amount of transfer pricing but also on a number of other factors (for example, labor costs, administrative costs, labor organization, degree of automation, qualification of employees and management, effectiveness of advertisement, marketing

success, etc.). All of these factors are very different for each company, even when they do business in the same branch.

In addition, we would like to point out another factor. In the case of deliveries from Germany, a change in the U.S. dollar exchange rate from a DM 2 level to the present level of DM 1.60, would lead to approximately a 20% total profit loss for the associated companies. In many cases, this means the elimination of profits for the companies involved in the transaction or even losses. In case the price is agreed on in DM, then a reduction of profits or losses occurs directly at the U.S. company receiving the delivery from Germany.

Since the U.S. dollar exchange rate has fallen against almost all foreign currencies since 1985, this is one of the most important economic factors which can have a negative influence on the income of the "foreign" company. This ongoing development of the U.S. dollar against other currencies is surely one of the main causes for the declining profitability of U.S. subsidiaries of foreign companies as compared to home-grown U.S. companies.

Another reason why the CPI concept appears to be fully unacceptable to us is because it does not take into account, in any way, the special influences present in each individual company. For example, it should be obvious to anyone that a foreign company that has just set up business on American soil must show a totally different profit profile than a company that is well established on the American market. The proposed regulations ignore such elementary factors without a second thought.

It can already be recognized that the proposal is based on fully unrealistic conceptions of company circumstances, inter-company procedures and conditions, as well as the formation of transfer pricing practices.

- b) We view the problems faced in selecting reliable data from comparable companies, selecting comparable transactions of these companies, obtaining sufficiently detailed and reliable financial and other data relating to their operations, selecting data, selecting the profit indicators, calculating the CPI and selecting the most appropriate point within the CPI as unresolvable. In practice, a large portion of the necessary information will not be available in the accuracy needed. It will be impossible to make accurate assessments. We believe that orienting transfer pricing on the CPI would yield subjectively colored, unreliable results at best. This would have a damaging effect on the examined companies.

It is totally unclear how the IRS is to get hold of the necessary comparison data, especially when this deals with comparable companies located in foreign countries. The international exchange of information programs can not be used in any way to furnish such comparable data. Even Sec. 6038A IRC can not be applied as the basis for furnishing the information from abroad. To the extent the IRS intends to rely on data which is already

available to it we doubt that these data are reliable and specific enough to allow an accurate assessment limited on the CPI.

- c) Basing the examination of transfer pricing on the CPI would result in the IRS using data which stem from direct competitors of the examined company. The examined company would not be informed of these data and therefore would not be able to examine them for their appropriateness. The results would be that the company under examination would neither be able to adjust its tax return to the data when it files nor objectively argue the comparable data with the examiners or in court.

In this way, the company would not be allowed to object or argue that there are concrete situations which allow for or require deviating estimates of the transfer pricing. Basic rights, which must be granted in any constitutional proceeding, would be denied the company. We maintain that this denial of justice is fully unacceptable. This is also true in regard to the burden of evidence the company has and its risks of carrying all costs and in addition being threatened with heavy penalties if it does not comply.

- d) Even if the IRS informed the company of the comparable data during the audit, it would be too late to negotiate prices between the associated companies.
- e) If the U.S. company is allocated a profit mark-up at a time when taxes can not be changed for the company located outside of the U.S., then the results of the new regulations would inevitably be double taxation. In addition to this, if the U.S. does not budge from its position, relief can not be expected by using the Mutual Agreement Procedure or through arbitration proceedings. It should also be considered that contracts between associated companies are closely examined by tax authorities and, as a rule, retroactive agreements which have tax consequences are not recognized.

1.1.3 Concerns Regarding Periodic Adjustments of Transfer Pricing

We have serious objections concerning the proposed periodic adjustments of the transfer pricing for intangible assets. According to the internationally recognized principles, the situation at the conclusion of a contract is decisive in determining transfer pricing. This is clearly stated in the OECD-Report of 1979. The newly proposed U.S. regulations are not compatible with this international consensus. Furthermore, the results of this would be that the IRS would no longer recognize valid commercial contracts which were negotiated with appropriate conditions at the time of conclusion. This is unreasonable and contradicts the recognized principle of "pacta sunt servanda".

1.2 Concerns Regarding the Compatibility of the Proposed Regulations with the Arm's Length Standard

Aside from these serious problems, the main issue is the compatibility of the proposed regulations with the Arm's Length Standard. This principle is recognized by all important industrial nations. It is rooted in the OECD-Model Treaty of 1977, in the OECD-Report on transfer pricing of 1979 and in Article 9 of the Convention between the Federal Republic of Germany and the United States of America for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxation of August 1989 (hereinafter referred to as the U.S.-German Double Taxation Convention). The Arm's Length Standard is the only appropriate and legitimate method for tax authorities, as well as for taxpayers, to determine transfer pricing between affiliated groups. This principle is very significant because

- it allows tax authorities to adjust the transfer pricing between associated companies to those prices which would have been agreed on by third parties,
- it allocates the appropriate portion of tax revenue to the countries involved since it refers to objective standards,
- it establishes a secure base for associated companies from which they can calculate their transfer pricing,
- it establishes legal certainty on a broad international basis.

That is why we consider it to be very important that the U.S. continue to base its determination of transfer pricing on the International Arm's Length Standard, and does not try to set new standards through unilateral measures. These measures would greatly restrict international transactions. Industry would be the loser in an international fight for the appropriate portion of tax revenue.

Despite claims to the contrary, the new regulations do not correspond to the Arm's Length Standard. Rather, the result of the proposed regulations is the introduction of a new method, entirely different in concept, for examining transfer pricing. Corrections would be made even in those cases in which the negotiated transfer pricing is accepted as valid under the recognized Arm's Length Standard.

The basic departure from prevailing international consensus is that the new regulations are based on the combined effects of all transactions. By this means it is possible to make global income adjustments. In contrast, both the OECD-Report of 1979 and the German regulations base their determinations on a specific business transaction. A similar divergence is the question of which time frame is to be decisive in making the determination. The OECD-Report of 1979 and many other national regulations are based solely on the point in time when a contract is concluded. The new regulations deviate from international consensus in that they provide that the impact of the transaction is to be based on the time

before, during and after the respective year under examination. In addition, the transfer pricing for the transfer of intangible assets is to be adjusted to the profit profile experienced by the comparable company during the entire period of use.

1.3 Summary

In conclusion, the intolerable consequences which would be the result of the new regulations can be outlined as follows:

- a) They directly conflict with recognized international law practices, with national laws of trading partners of the U.S. and with the corresponding regulations in the U.S.-German Double Taxation Convention.
- b) The parties would be forced to orient themselves to comparable data of third party companies when agreeing to the transfer pricing. They would not have these data either at the time of agreement or at a later date. Considerable uncertainty and added costs would be the result for the company.
- c) The new regulations would lead to international double taxation at a magnitude previously unknown. Not every case of double taxation can be counterbalanced with correlating adjustments to the transfer pricing by the other country.
- d) They would lead to new and serious barriers for international commerce.

1.4 Suggestions for Revision

It is our opinion that the proposed transfer pricing regulations should be fundamentally revised as follows:

- a) The Comparable Profit Interval should be completely eliminated for both tangible and intangible assets insofar as it represents a compulsory method for correcting transfer pricing. This does not discount that the CPI should be used as a test method in examining the plausibility of transfer pricing in cases of obvious misuse.
- b) The Comparable Uncontrolled Price Method should be retained under the same conditions as earlier for tangible and intangible assets.
- c) The Resale-Minus Method and the Cost-Plus Method should be retained as the standard methods for examining transfer pricing.
- d) The Matching Transaction Method should be considerably expanded in its area of application.

2. Cost Sharing Arrangements (CSA)

In reference to the CSA, the proposed regulations do afford a certain amount of relief compared to the White Paper. However, they still contain restrictive measures that would either make them impossible to implement or, because they create considerable uncertainties, discourage international affiliated groups from engaging U.S. companies as partners in CSA. Sensible economic structuring to finance international inter-corporate operations, such as research and development, would fail due to the very inflexible regulations.

We would like to amplify these comments based on the following provisions of the proposed regulations:

- 2.1 The benefit test is to be based on prognosticated data. This makes sense for some areas of application but should not be prescribed as a fixed rule. It is provided that "any other measure that reasonably predicts the benefits to be shared" can be used, but it is expected that the IRS, in the end, will always rely on future data. Especially in the area of research and development, benefit can not be quantified from the outset. It is therefore customary with CSA that future benefits be measured on the basis of current data (for example, revenues or added value in a current period), while assuming similar conditions will remain the same in the future for all partners. Small advantages and disadvantages, which often may exist during certain years, balance themselves out over the life of a contract. For this reason it is reasonable and necessary that the current (actual) data be taken as the basis if they represent future benefits.
- 2.2 The proportionate Profit Rule is unsuitable, leads to problems of documentation which are unresolvable, does not account for long-range performance or developments and employs inappropriate comparisons. The cost/income ratio is derived from the "average operating income attributable to intangibles developed under the arrangement". If developed intangible assets represent components of a larger unit and the "income" of the individual component can not be determined, then the "ratio" can also not be determined.

The submission of the pertinent documentation has become more difficult for the foreign partners to comply with because their cost calculations comply with their national regulations and not the U.S. GAP. Extensive recalculations would have to be undertaken. If the submission of pertinent documentation can be requested at all, then we insist that this information be exchanged in the way provided for in the double taxation conventions.

- 2.3 The three year time frame ("current taxable year and the two preceding taxable years") does not take into account that it can sometimes take up to 10 years to develop a product. For this reason, fixing a rigid time frame is completely inappropriate. It is possible that, due to the different market conditions, individual countries do not use their know-how at the same time.

- 2.4 The definition of operating income in reference to "income that is directly or indirectly attributable to the intangible development area" also appears to include related product groups. This will be very difficult to implement for many companies and, moreover, would lead to incorrect results. It does happen, for example, that an affiliated group uses a certain technology, which is based on a certain fund of know-how, in several different business sectors (world-wide profit centers organized under their own corporations). Separate CSA's already exist for these business sectors. They are based on the conditions prevalent in the individual sectors and aim to allocate the developmental costs to the specific product groups. In one of the business sectors for example, the technology for certain industrial machinery is marketed while in the other business sector this technology is applied for process automation. These are separate groups with separate goals and separate demand profiles. According to the proposed regulations, the results of the other profit centers would have to be included in order to determine income. Aside from the difficulties in making an assessment, the example shows that such a broad interpretation is not equitable.
- 2.5 Further problems arise from the requirement that the "intangible development area covered by the agreement is broad enough ... and narrow enough ...".

According to the proposed regulations, basic research is to be expressly included. Many affiliated groups have their own separate research institutes set up for basic research. They distribute their research and development costs among the groups and regions that profit from their activities in accordance to a CSA based on these conditions. The compulsory allocation of basic research to the product specific CSA would nullify and eliminate well established and sensible structuring within an affiliated group.

We would like to point out that vague terms such as "broad enough" and "narrow enough" will inevitably lead to differences of interpretation between IRS and taxpayers. Consequently, every trans-national agreement in the areas specified would be invalidated. Above all, it must not be overlooked that the IRS can make subsequent adjustments at a time when taxes have already been set and are legally binding for the partner in the other country.

The comparison of one partner's cost/income ratio with the cost/income ratio of the other partners is also inappropriate. This comparison insinuates that the partners' results are solely or at least substantially influenced by their participation in the CSA. What it does not take into account is that a large number of factors contribute to the results. The comparison of a loss situation would also lead to fully incorrect profiles and adjustments. A cost correction on the basis of the cost/income ratio would also entail the subsidization of inefficient partners. This contradicts the Arm's Length Standard. It is also unacceptable for reason of the inter-corporate responsibility of the individual affiliates to make maximum profits.

2.6 Finally, whenever an adjustment is made on the transfer pricing and, in this case, on the cost allocations due to a CSA in the U.S., a corresponding adjustment must be made by the other partners. This procedure must be in accordance with the provisions in the double taxation conventions. The IRS must restrict itself to making adjustments only when an agreement can be reached with the treaty country.

2.7 The following is a summary of the objections we raise against the proposed CSA regulations:

- For the benefit test or the cost allocation scheme within the CSA, not only future data, but alternatively data from the current year should be eligible.
- The proportionate profit rule is inappropriate in the CSA.
- The 3 year time span for adjustments does not take into account the respective circumstances.
- The inclusion of related product groups and the combining of several cost sharing contracts must be rejected.
- The obligations with respect to providing documentation are unfulfillable.
- Corresponding adjustments must be guaranteed.

Please feel free to request additional information or clarification.

Sincerely,



Lothar Griessbach