



United States Department of State

Washington, D.C. 20520

R39

RELEASED IN FULL

July 15, 1987

MEMORANDUM

URGENT

TO: NEA - Mr. Peck  
 OES/N - Mr. Stratford  
 S/NP - Mr. Samore  
 ACDA - Mr. Sloss ✓

FROM: L/N - Ted A. Borek *TAB*

SUBJECT: Letter to Justice on Pakistan Export Case

Attached for clearance at your earliest convenience is an action memorandum package to Mr. Armacost, requesting that he sign a letter to the Deputy Attorney General urging vigorous prosecution of the managing steel and similar cases, and seeking Justice's cooperation in ensuring that we have access to such information as we may need for purposes of the Solarz amendment. This all should be, I think, self-explanatory.

Mike Matheson has seen and concurs in the attached. Judge Sofaer has been out of town but is expected to return to the office later today, by which time I would hope to have this in shape for his initialing.

Attachment:

As stated.

- 1) ~~LW~~
- 2) ~~MDR~~
- 3) ~~HW~~
- 4) Return to DS

Note: I cleared this

M200800012

383-00-0031

Box 3

REVIEW AUTHORITY: Sharon Ahmad, Senior Reviewer

*David:*  
 I have no trouble with this bit on minor comment, please.  
 In the Vaid case, it was not issue of vigorous prosecution that got the bad ~~reaction~~ reaction rather it was the lenient sentence. Could you ask Ted if some concept of a stiff sentence can be introduced should prosecution lead to conviction? He may <sup>say</sup> no because it would be seen as an interference or somehow prejudicing the rights of the accused. If he says no, I'll accede but otherwise I think it'd be wise to say something about sentence.

*-N*

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ACTION MEMORANDUM

TO: P - Under Secretary Armacost

FROM: L - Abraham D. Sofaer  
NEA - Richard W. Murphy  
OES - John D. Negroponte

SUBJECT: Letter to Justice on Pakistan Export Violation Case

As you know, on July 10 in Philadelphia the Customs Service arrested a Canadian resident of Pakistani origin and charged him with various offenses stemming from an alleged attempt to export specialty steel and beryllium to Pakistan in violation of U.S. laws and regulations. The materials in question have important nuclear applications.

In 1984, in another case of an alleged unlawful attempt to export nuclear-related equipment to Pakistan, the defendant was allowed to plead guilty to a single criminal count and was given a suspended sentence and deported. Allegations subsequently surfaced that the Department had intervened to prevent a more vigorous prosecution. Although flatly untrue, these allegations proved hard to dispel.

We believe that quick action formally advising the Justice Department that this and similar cases should be prosecuted to the fullest extent of the law would help prevent a recurrence of such a situation. We could also use the opportunity to register our need for appropriate access to evidence developed in the course of the criminal investigation insofar as that evidence is relevant to our responsibilities under the Solarz amendment.

A letter to Deputy Attorney General Burns to these ends is attached for your signature.

Recommendation:

That you sign the attached letter to the Deputy Attorney General.

## Attachment:

Letter to the Deputy Attorney General

**REVIEW AUTHORITY: Sharon Ahmad, Senior Reviewer**

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Drafted: L/M: TAPonek  
7/13/87: x71043

Clearances:       L - Mr. Matheson  
                  OES/N - Mr. Stratford  
                  NEA - Mr. Peck

R39B

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Honorable Arnold I. Burns  
The Deputy Attorney General  
Department of Justice  
Washington, D.C.

Dear Mr. Burns:

I have been advised that our Departments have been in close touch concerning the recent arrest in Philadelphia of a Canadian resident of Pakistani origin on various charges stemming from an apparent effort to export to Pakistan specialty steel and other material having nuclear applications.

We recognize, of course, that the Department of Justice has sole responsibility for the exercise of prosecutorial discretion in cases such as this. We would, however, like you to have our views concerning the foreign policy implications of this case so that they might be taken into account insofar as they may be relevant to your decisions regarding this and any similar case.

As you know, the prevention of the proliferation of nuclear weapons has long been a central United States foreign policy and national security objective. To this end, the export of items which might contribute to the development of nuclear weapons is subject to rigorous controls under various U.S. laws, and we have made clear that violation of those laws in order to obtain such items will not be tolerated. We have consistently urged other governments to impose, and enforce, similar controls over nuclear exports.

The prosecution of nuclear export control violators to the fullest extent of the law is necessary if we are to be successful in our efforts to persuade other nations to take similar enforcement actions. In addition, and more generally, vigorous action will serve to demonstrate United States resolve and thus contribute to the international credibility of our policies and actions in the nuclear nonproliferation area. We are prepared to cooperate with you in any way we can to this end.

On a separate, yet related, note, the Department of State is responsible for making recommendations to the President concerning the application of section 620(a)(1)(B) of the Foreign Assistance Act of 1961, as amended, commonly known as the Solarz Amendment. The Solarz Amendment requires termination of most U.S. assistance to a country which illegally exports or attempts to export from the United States items or technology which would contribute significantly to the ability of that country to manufacture a nuclear explosive device, if the President determines

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that the item or technology was to be used in the manufacture of such a device.

In order to carry out these responsibilities, we must be in a position to give the President timely and solid advice on such matters as whether a particular export or attempt was made by or on behalf of a foreign government, and whether the commodity involved was intended to be used in the manufacture of a nuclear device. Such advice must depend in large measure on facts and evidence gathered in the course of criminal investigation and not otherwise in the possession of the Department of State. We would be grateful for your assistance in ensuring appropriate access to such information in order that we may satisfy our responsibilities to the President under the Solarz Amendment.

Sincerely,

Michael H. Armacost