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Classified Congressional Briefing on Pakistani Clandestine Nuclear-Related Procurement

-- We have requested this opportunity to brief you on a law enforcement development which may have a bearing on US foreign policy interests. The briefing is classified secret.

-- Pakistan has long had an active clandestine program to procure items on the international market for its unsafeguarded nuclear program.

-- Today, the Justice Department filed criminal charges in a case concerning an attempt to export items from the United States that may have been intended for Pakistan's nuclear program. [We are advised that another active investigation concerning illegal procurement activities prior to 1985 may result in the lodging of criminal charges in the near future].

-- The case announced today involves a recent alleged attempt to export 30 tonnes of maraging steel by an individual believed to be a Pakistani national acting in concert with others. There are some indications that the material may have been intended for use in manufacturing centrifuges for Pakistan's uranium enrichment facility at Kahuta.

-- We have provided appropriate assistance to the Justice Department and Customs Service since we learned of the investigation, and we have urged the Justice Department to prosecute the individuals involved to the fullest extent of the law.

-- If you have any specific questions concerning the law enforcement aspect and other details of this case, I suggest that you refer these to the Department of Justice.

[Following section on Solarz amendment could be included in the briefing or in the question and answer session]

-- Although the links, if any, between the case and Pakistan's nuclear program may not be directly relevant to the prosecution, they could be relevant to our ability to continue military and economic assistance to Pakistan.

-- The Solarz amendment to the Foreign Assistance Act (Section 670 (a) (1) (B)) provides that, absent a Presidential waiver, the United States must terminate most military and economic assistance to any non-nuclear weapon state which, on or after August 8, 1985, "exports illegally (or attempts to export illegally) from the United States any material, equipment or technology which would contribute significantly to the ability of such country to manufacture a nuclear explosive device, if the President determines" that the export "was to be used by such country in the manufacture of a nuclear explosive device."

-- For the purposes of this law, "an export (or attempted export) by a person who is an agent of, or is otherwise acting on behalf of or in the interests of, a country is considered to be an export (or attempted export) by that country."

-- The Solarz amendment has a variety of elements that must be resolved before any conclusions may be drawn concerning its applicability. We are currently seeking as much information as possible to permit a thorough and conscientious review. We wish to emphasize that we take very seriously our obligation to execute this law.

-- Ultimately, the responsibility for making any determinations under the Solarz amendment rests with the President. We believe the President may need to await the outcome of the criminal proceedings begun today before making any determination. A formal Presidential finding beforehand could make a successful prosecution consistent with due process impossible, and the trial may develop important evidence to assist the President in making any final determination.

-- The delay in considering the Solarz amendment also provides an opportunity to intensify our diplomatic pressure on Pakistan to curb its activities of proliferation concern, and to assess whether there is any change in Pakistan's behavior as a result of our past demarches and our response to this case.

[End of section on Solarz amendment]

-- As a first step in our diplomatic response, we intend to present the Government of Pakistan with the facts known to date about this case and demand an explanation of what appears to be a violation of assurances we have received from that Government.

-- We have repeatedly warned the Pakistani Government at the highest levels that attempts to procure items in the U.S. illegally either by the Government of Pakistan or its agents will severely jeopardize U.S./Pakistani relations.

-- The Pakistani Government claims it issued orders in May to all personnel involved in nuclear activities to avoid illegal procurement activities in the U.S. It is too early to determine what impact this order may have, since the Government may not be able to control the activities of Pakistani businessmen.

-- The State Department monitors these activities very closely and works with USG licensing and enforcement agencies to halt them. We also monitor closely Pakistani procurement activities in Europe and the Far East, and we cooperate actively with other governments to obstruct such procurement activities and assist prosecutions.

-- The combination of our diplomatic efforts and enforcement activities, together with the anticipated deterrent effect of this case, may produce positive results.

-- A precipitous public response either by the President or Congress, however, could have severe adverse consequences. We are particularly concerned about weakening the President's hand in discussions with the Soviets on Afghanistan, which is at a critical stage. Key talks are likely to place if a Fall summit is held, and any indications that US resolve or ability to work with Pakistan on the Afghan issue is weakening could reduce Soviet incentives to reach a settlement.

-- In view of the need to gather more facts about the case, to avoid prejudicing a fair trial, to test Pakistani behavior on the nuclear issue, and to maintain a strong position on Afghanistan, we oppose a hasty reaction to this case.

-- We will, of course, keep Members of Congress and their staffs fully briefed as events unfold.

[If raised]

-- If hearings are to be held, we would strongly urge that they be held in closed session because of the danger of jeopardizing the prosecution and the necessity of involving classified information.

-- In response to media inquiries, we would suggest that members of Congress indicate that they are aware of the case, are concerned by the issues that it may raise, and have been in touch with the Executive branch authorities to ensure that they are raising concerns with the government of Pakistan and reviewing the applicability of any relevant provisions of law.

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Q's and A's for use with Congress

Q. What is your reaction to Pakistan's violation of U.S. laws and regulations?

A. Your question assumes that the government of Pakistan was involved in the alleged illegal acts. That question is under intensive review. We have made clear to Pakistan on many occasions, however, that any activities in violation of U.S. law will not be tolerated, and we will make that point again.

Q. In light of our ongoing concerns about Pakistan's nuclear activities, including illegal procurement activities, why should we continue to provide them with billions of dollars worth of assistance?

A. The U.S. and Pakistan share important strategic interests, which exist independently of our nuclear concerns. Promotion of these important strategic interests is a primary objective of the U.S. security assistance program. Moreover, we believe that our security assistance relationship exercises an important restraining influence on Pakistan's nuclear program by reducing its incentives to acquire nuclear weapons and creating disincentives to such acquisition.

Q. It seems to me that this case should clearly trigger the Solarz amendment. What more is there to study?

A. While the question of the Solarz amendment's applicability clearly arises, numerous complex legal and factual issues must be resolved before any conclusions can be reached. Among these are:

1) whether there was a violation of U.S. law;
2) whether the attempted export would have contributed significantly to Pakistan's ability to manufacture a nuclear explosive device;
3) whether the items were to be used for such a purpose.
4) whether the government of Pakistan is implicated in the illegal actions.

Careful study, and ultimately a Presidential determination, ~~will~~ would be required before the Solarz amendment is applied.

Q. Suppose there is a conviction. Would the Solarz amendment be triggered at that time?

A. Any decision would take that into account as well as all the available information concerning all the elements of the amendment.

Q. Suppose the accused is let off on a technicality. Would that mean that the Solarz amendment would not apply?

A. Not necessarily. The amendment's standard is illegality, not conviction.

Q. Well, what would you recommend to the President under either of those circumstances?

A. While I believe that this case raises very serious questions about the applicability of the Solarz amendment, I cannot make a recommendation at this time.

Q. To trigger the Solarz amendment, an export would have to contribute significantly to Pakistan's ability to manufacture a nuclear explosive device. Does it?

A. That is one of the questions we will review. As Congress has been told, Pakistan already has the technical capability to manufacture a nuclear device, if it chooses to do so. Additional centrifuges, however, could assist their enrichment program.

Q. In order to trigger the Solarz amendment, the President would need to determine that the material was to be used in the manufacture of a nuclear explosive device. Was it?

A. There are some indications the maraging steel may have been intended for use in manufacturing centrifuges for uranium enrichment. Such centrifuges could be used to produce highly enriched uranium which could be used in manufacturing nuclear weapons, but we cannot say with certainty that is the intended use. We are studying the available evidence and the stautory standard to determine whether it supports a Presidential finding that the maraging steel was intended to be used in the manufacture of a nuclear explosive device.

Q. To trigger the Solarz amendment, the individuals in this case would have to be working as agents or on behalf of the Pakistani government. Were they?

A. There are some indications that one of the individuals involved may have been working for a Pakistani trading company that has a long record of procuring goods for Pakistan's nuclear program. Additional information may come to light during legal proceedings that will help us to determine whether the case involves activity on behalf of the Government of Pakistan.

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Q's and A's for use with the Media

Q. What is your reaction to Pakistan's violation of U.S. laws and regulations?

A. THE INVOLVEMENT OF THE PAKISTANI GOVERNMENT IN THIS CASE HAS NOT YET BEEN ESTABLISHED. I WOULD NOTE GENERALLY THAT WE HAVE MADE CLEAR TO PAKISTAN THAT ANY ACTIVITIES IN VIOLATION OF U.S. LAW WILL NOT BE TOLERATED, AND WE WILL REITERATE THIS POINT.

Q. But wasn't this individual working for the Pakistani government?

A. AS YOU KNOW, IT IS NOT OUR POLICY TO COMMENT ON PENDING CASES. ANY QUESTIONS ABOUT THIS SPECIFIC CASE SHOULD BE DIRECTED TO THE DEPARTMENT OF JUSTICE.

Q. Doesn't this case indicate that Pakistan is continuing and even increasing its efforts to build nuclear weapons?

A. THE RELATIONSHIP BETWEEN THIS CASE AND PAKISTAN'S NUCLEAR PROGRAM HAS NOT YET BEEN DETERMINED. WE CONTINUE TO EXPRESS OUR SERIOUS CONCERNS TO PAKISTAN ABOUT ITS NUCLEAR PROGRAM. PAKISTAN'S LEADERS KNOW THAT CONTINUATION OF U.S. ASSISTANCE DEPENDS ON RESTRAINT IN THE NUCLEAR AREA.

Q. Are you going to suspend assistance to Pakistan, as required by the Solarz Amendment?

A. WE ARE WELL AWARE OF THE REQUIREMENTS OF THAT PROVISION OF THE FOREIGN ASSISTANCE ACT AND WILL ENSURE THEY ARE CARRIED OUT WHERE THEY APPLY. NO JUDGMENTS HAVE BEEN MADE IN THIS CASE.

Q. In light of our ongoing concerns about Pakistan's nuclear activities, including illegal procurement activities, why should we continue to provide them with billions of dollars worth of assistance?

A. THE U.S. AND PAKISTAN SHARE IMPORTANT STRATEGIC INTERESTS. PROMOTION OF THESE IMPORTANT STRATEGIC INTERESTS IS A PRIMARY OBJECTIVE OF THE U.S. SECURITY ASSISTANCE PROGRAM. MOREOVER, WE BELIEVE THAT OUR SECURITY ASSISTANCE RELATIONSHIP EXCERCISES AN IMPORTANT RESTRAINING INFLUENCE ON PAKISTAN'S NUCLEAR PROGRAM BY REDUCING ITS INCENTIVES TO ACQUIRE NUCLEAR WEAPONS AND BY CREATING DISINCENTIVES TO SUCH ACQUSITIONS.

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