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DISARMAMENT AND
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ACTION
TO NWC
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NWC/NSI
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FM SECSTATE WASHDC
TO AMEMBASSY OTTAWA IMMEDIATE

CONFIDENTIAL STATE 278631

EXDIS FOR DCM FROM BOREK (L/N)

E.O. 12356: DECL: OADR
TAGS: PREL, MNUC, PK, CA
SUBJECT: ACCESS TO CANADIAN DOCUMENTS IN PERVEZ
CASE

DECLASSIFIED

REF: (A) OTTAWA 07389; (B) BOREK/HASON TELCON 9/3

1. CONF/EXDIS (ENTIRE TEXT)

2. PER REF (B) THERE FOLLOWS TEXT OF NOTE BASED ON
DRAFT REF (A):

-- THE EMBASSY OF THE UNITED STATES OF AMERICA PRESENTS
ITS COMPLIMENTS TO THE DEPARTMENT OF EXTERNAL AFFAIRS
AND HAS THE HONOR TO REFER TO RECENT DISCUSSIONS
BETWEEN THE EMBASSY AND THE DEPARTMENT CONCERNING
CERTAIN DOCUMENTS OBTAINED BY CANADIAN LAW ENFORCEMENT
AUTHORITIES AND MADE AVAILABLE TO UNITED STATES LAW
ENFORCEMENT AUTHORITIES IN CONNECTION WITH THE LATTER'S
INVESTIGATION, ARREST AND PROSECUTION OF ARSHAD PERVEZ
ON CHARGES STEMMING FROM AN ALLEGED EFFORT TO EXPORT
CERTAIN NUCLEAR-RELATED MATERIALS FROM THE UNITED
STATES TO PAKISTAN IN VIOLATION OF THE LAWS OF THE
UNITED STATES.

-- AS THE DEPARTMENT IS AWARE, SECTION 670(A) (1) (B) OF
THE UNITED STATES FOREIGN ASSISTANCE ACT OF 1961, AS
AMENDED, FAMILIARLY KNOWN AS THE SOLARZ AMENDMENT,
REQUIRES THAT MOST UNITED STATES ECONOMIC AND SECURITY
ASSISTANCE BE TERMINATED TO ANY NON-NUCLEAR WEAPONS
STATE WHICH, ON OR AFTER AUGUST 2, 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 OF THE UNITED STATES DETERMINES THAT
SUCH MATERIAL, EQUIPMENT, OR TECHNOLOGY WAS TO BE USED
BY SUCH COUNTRY IN THE MANUFACTURE OF A NUCLEAR
EXPLOSIVE DEVICE.

-- THE SOLARZ AMENDMENT IS SEPARATE FROM, AND
INDEPENDENT OF, THE PROVISIONS OF UNITED STATES
CRIMINAL LAW UNDER WHICH MR. PERVEZ HAS BEEN CHARGED.
WITHIN THE UNITED STATES GOVERNMENT PRINCIPAL
RESPONSIBILITY FOR MAKING RECOMMENDATIONS TO THE
PRESIDENT CONCERNING THE APPLICABILITY, OR NOT, OF THE
SOLARZ AMENDMENT TO A GIVEN SITUATION RESTS WITH THE

DEPARTMENT OF STATE. IN ORDER TO BE IN A POSITION TO
MAKE SUCH A RECOMMENDATION, THE DEPARTMENT OF STATE
MUST SATISFY ITSELF THAT IT HAS EXAMINED AND TAKEN INTO
ACCOUNT ALL EVIDENCE AND OTHER INFORMATION WITH A
POTENTIAL BEARING ON THE QUESTION. WITH PARTICULAR
REGARD TO THE PERVEZ CASE, IT IS NECESSARY (BEGIN
UNDERLINE) INTER ALIA (END UNDERLINE) TO DETERMINE
WHETHER, AND IF SO, TO WHAT EXTENT, MR. PERVEZ'
ACTIVITIES IN CONNECTION WITH THE ALLEGED EFFORT TO
EXPORT NUCLEAR-RELATED MATERIALS FROM THE UNITED STATES
WERE UNDERTAKEN BY HIM AS AN AGENT OF, OR OTHERWISE ON
BEHALF OF OR IN THE INTERESTS OF, THE GOVERNMENT OF
PAKISTAN. THE DEPARTMENT OF STATE CONSIDERS THE
DOCUMENTARY EVIDENCE OBTAINED BY THE CANADIAN LAW
ENFORCEMENT AUTHORITIES AND PROVIDED BY THEM TO THE
UNITED STATES LAW ENFORCEMENT AUTHORITIES TO BE OF
POTENTIAL RELEVANCE TO THIS AND OTHER QUESTIONS ARISING
UNDER THE SOLARZ AMENDMENT, AND HENCE TO THE
DEPARTMENT'S ABILITY TO ACQUIT ITSELF OF ITS
RESPONSIBILITIES UNDER THE SOLARZ AMENDMENT.

-- THE EMBASSY THEREFORE HAS THE HONOR TO REQUEST THE
CONSENT OF THE CANADIAN GOVERNMENT FOR LEGAL AND OTHER
EXPERTS FROM THE DEPARTMENT OF STATE TO HAVE ACCESS TO
THE AFOREMENTIONED CANADIAN GOVERNMENT-SUPPLIED
MATERIAL IN THE POSSESSION OF UNITED STATES LAW
ENFORCEMENT AUTHORITIES FOR THE SOLE PURPOSE OF

EVALUATING THAT MATERIAL FROM THE STANDPOINT OF ITS
RELEVANCE, IF ANY, TO THE QUESTION OF THE APPLICABILITY
OF THE SOLARZ AMENDMENT TO THE CIRCUMSTANCES OF THE
PERVEZ CASE. SUCH EXAMINATION WOULD TAKE PLACE ON THE
PREMISES OF THE U.S. LAW ENFORCEMENT AUTHORITIES
QUESTION, AND THE MATERIAL ITSELF WOULD NOT BE COPIED
OR OTHERWISE REMOVED FROM THE CUSTODY OF THOSE
AUTHORITIES WITHOUT THE FURTHER CONSENT OF THE CANADIAN
GOVERNMENT.

- THE EMBASSY WISHES TO NOTE IN THE ABOVE REGARD THAT
IT IS NOT POSSIBLE TO DETERMINE, IN ADVANCE OF AN
EXAMINATION OF THE MATERIAL IN QUESTION WHETHER THE
INFORMATION CONTAINED THEREIN WILL BE OF SIGNIFICANCE
FOR SOLARZ AMENDMENT PURPOSES. IN THE EVENT SUCH
INFORMATION IS FOUND, IT WOULD BE USED SOLELY IN
CONNECTION WITH INTERNAL AND CONFIDENTIAL UNITED STATES
GOVERNMENT DELIBERATIONS LEADING TO A RECOMMENDATION TO
THE PRESIDENT CONCERNING A DECISION REGARDING THE
APPLICABILITY OF THE SOLARZ AMENDMENT. THE CONTENT OF
SUCH INFORMATION WOULD NEITHER BE DISCLOSED TO THIRD
PARTIES NOR USED FOR ANY OTHER PURPOSE WITHOUT THE
FURTHER CONSENT OF THE CANADIAN GOVERNMENT.

- THE QUESTION OF THE APPLICABILITY OF THE SOLARZ
AMENDMENT TO PAKISTAN WILL BE A MAJOR FACTOR IN THE
UNITED STATES CONGRESS' CONSIDERATION OF WHETHER TO
EXTEND THE PRESIDENT'S STATUTORY AUTHORITY TO FURNISH
SECURITY ASSISTANCE TO PAKISTAN BEYOND ITS CURRENT
EXPIRATION DATE OF SEPTEMBER 30, 1987. THESE
CIRCUMSTANCES MAKE IT IMPERATIVE THAT A RECOMMENDATION
TO THE PRESIDENT ON THE SOLARZ AMENDMENT QUESTION BE
MADE WITHIN THE VERY NEAR FUTURE. THE EMBASSY WOULD
THEREFORE BE GRATEFUL FOR THE FAVOR OF AN EARLY REPLY
TO THIS REQUEST. END TEXT. ARHACOST

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U.S. ARMS CONTROL
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REVIEW AUTHORITY: Sharon Ahmad, Senior Reviewer

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