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ASSISTANT DIRECTOR

UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY  
December 21, 1987

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MEMORANDUM FOR UNDER SECRETARY OF STATE  
FOR POLITICAL AFFAIRS

SUBJECT: Next Steps on Pakistan -- Solarz and Symington (U)

With the conviction of Pervez and enactment of an unconditional authority to waive Symington, a strategy is needed that addresses timing--when to invoke Solarz, when to waive Solarz, when to waive Symington--and the conditions, if any, that would be attached to the Solarz and Symington waivers. This memo seeks to provide initial thoughts on such a strategy. (S)

Recent Congressional action could be construed as a Congressional determination that our Afghan interests take precedence over our non-proliferation interests. Carrying this interpretation too far, however, would be both imprudent and bad policy. Imprudent because the two and one-half year waiver authority carries with it funds only for this Fiscal Year. Appropriations will be needed for Fiscal Years 1989 and 1990. Bad policy because if we do not obtain meaningful nuclear restraint from Pakistan now while we have an extensive aid program we are unlikely to be able to sustain a significant relationship with Pakistan in a post-Afghanistan environment. Bad policy also because continuation of the present pace of Pakistan's nuclear program will eventually lead to an Indian response and because of the corrosive effect on our global non-proliferation effort. Therefore, while we serve our Afghan interests by renewing assistance to Pakistan, we must also seek to advance our non-proliferation interests. (S)

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Solarz

The first Administration response to the Pervez conviction should not be waiver of Symington. Rather, the response should be a rapid invocation of Solarz. Lengthy legal analysis is not germane. The issue is fundamentally political not legal. The lawyers should be able to advise us now on how to draft the finding so that it will not create a sweeping precedent for the future. Invoking Solarz now will send the right message to potential proliferants and to Zia. (S)

Before invoking Solarz, however, the Administration must decide the conditions under which it will waive Solarz. Presently, Pakistan's record on procurement remains ambiguous and confidence cannot be high that this will change in the near future. This indicates that we cannot make "a clear radar screen," to use Vernon Walters' infelicitous formulation, the test for waiving Solarz. On the other hand, we should not waive Solarz without having made additional efforts to halt Pakistan's illegal procurement activities. (S)

The best approach would be to dispatch a Presidential letter to Pakistan when the Solarz Amendment is invoked. That letter, while acknowledging that there are some signs of progress, would note that further effort by Pakistan is required. When delivering the letter to Zia, Raphel should be instructed to explore possibilities for further efforts that Pakistan could make to curb remaining illegal procurement activities. (S)

The most beneficial step would be an action by Pakistan that makes it illegal for their nationals to procure anywhere in the world US-origin goods for use in the Pakistan nuclear program. At a minimum, efforts by Pakistani government officials and employees of Pakistan's nuclear program to acquire US-origin goods for their nuclear program must stop. Ideally, procurement of goods for the Pakistani nuclear program from all other suppliers would be proscribed as well but this is equivalent to asking them to make criminal the actions of those engaged in the Pakistan nuclear program. Rather, our efforts with Pakistan should focus on procurements of US-origin goods. (S)

To deal with Pakistan's acquisitions from other countries, we should aggressively follow up on Secretary Shultz' initiative. This initiative, now several months old, should be developed to persuade the other suppliers to adopt a framework

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for export licensing that would allow them to deny exports of dual-use items when they have reason to believe them to be destined for use in an unsafeguarded nuclear facility. We should also increase the criminal penalties for illegal exports to unsafeguarded nuclear activities and seek similar actions in Europe and Japan. (S)

Illegal Pakistani procurement of US-origin goods for use in its nuclear program must cease. Anything less will not prevent a recurrence of the Solarz problem, will not satisfy the political imperative of some meaningful action designed to prevent future violations, and will not advance our non-proliferation interests. (S)

Symington

When this Administration resumed aid to Pakistan in 1982, it established conditions designed to keep the Pakistan nuclear program some distance from an actual nuclear-weapon capability. These conditions, the so-called red lines, originally consisted of the following four:

- no reprocessing;
- no assembly of a nuclear explosive device;
- no testing of a nuclear device; and
- no transfers to other countries of sensitive nuclear technology. (S)

Not to reiterate these red lines at the start of the next aid package would be a gross error. Possible misinterpretation by Zia of this action could lead Pakistan into going further than Congress would be able to tolerate, e.g., assembly. Clearly, the original four red lines must be reestablished. This should be accomplished in the same manner as in 1982 through a Presidential letter. Such a letter could be sent at the time the President acts to waive Solarz and Symington, or it could be set forth in the letter to Zia informing him of the invocation of Solarz, e.g., "if actions are taken by Pakistan to halt procurement of US-origin materials that will allow me to waive the Solarz Amendment, you must understand that our ability to continue assistance is dependent upon your respecting the conditions on your nuclear program that applied during the recently expired five-year program. Specifically, ...". (S)

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The conclusion that the original four red lines must be reestablished immediately raises the question of what to do about the fifth red line established in 1984--no enrichment above five percent. Abandonment of it would deprive us of the opportunity to continue seeking Pakistani restraint in this area--restraint that will be essential if we are to have a meaningful relationship in the post-Afghanistan period. Abandonment would also demonstrate a flagrant disregard of the concern of those in Congress who sought some legislative restrictions on aid because of enrichment activities. Abandonment also would have the effect of abandoning our non-proliferation interests. (S)

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However, we cannot reestablish the enrichment red line without some acknowledgment of the fact that they are enriching above five percent. While there may be other ways to accomplish this result, I believe that the best way would be to place a certain category of military assistance items off limits as long as enrichment is occurring above five percent. Ideally, it should be a broad enough category of items that it would serve as a significant inducement to Pakistan to cut enrichment. At a minimum, the items should include those which we do not want to sell Pakistan anyway, e.g., "no weapons that provide a new military capability or that constitute significant upgrades over the level of equipment previously sold to Pakistan unless enrichment levels remain below five percent." This approach would preclude transfer of systems such as AWACS. (S)

Summary


The Administration should promptly invoke Solarz. The President should write Zia to inform him of this decision and of the need for additional steps by Pakistan on the procurement front before the President will be able to waive the Solarz Amendment. In the same letter, or in a letter to be sent when Solarz is waived, the President should reiterate to Zia that the five red lines continue to apply and that absent compliance with the enrichment red line, the US will be unable to provide any weapons that provide Pakistan with "new military capabilities or that constitute significant upgrades over the level of equipment previously sold." (S)

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Publicly, the Administration should state when Solarz is invoked that efforts by Pakistan to halt procurement must be achieved before Solarz can be waived. When Solarz and Symington are concurrently waived, the Administration's public posture should be that Pakistan understands the need for restraint in its nuclear program. Probably without direct linkage to the Pakistani actions, the President should make some public comments on non-proliferation. (He has not done so since 1981.) In this speech, the President could propose some new initiatives on non-proliferation along the lines previously circulated by ACDA and now at the NSC. Strengthening the Administration's non-proliferation credentials would be desirable lest potential proliferants mistake Administration resolve and could prove helpful in dealing with the Congress on the Japan agreement. (S)

  
Norman A. Wulf, Acting

cc: NSC - Ambassador Oakley  
S/NP - Ambassador Kennedy  
INR - Kathleen Bailey  
NEA - Robert Peck  
OES - Dick Stratford  
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