



Washington, D. C. 20520

February 27, 1985

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INFORMATION MEMORANDUM
S/S

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RELEASED IN FULL

TO: The Secretary
FROM: L - Daniel W. McGovern, Acting ^{DW/MG}
SUBJECT: New York Times Article on Trial of Pakistani Smuggler

The New York Times on February 25 carried a front-page article (attached) by Seymour Hersh concerning the arrest and trial in Houston of a Pakistani citizen (Nazir Ahmed Vaid) for attempting to smuggle certain nuclear related components out of the United States. This is a brief summary of State's role in the case.

On June 22, 1984 Vaid was arrested in Houston for attempting to smuggle 50 "krytron microswitches" out of the U.S. These switches, which can be used as part of a firing set for a nuclear explosive device, are controlled by the Office of Munitions Control under the Arms Export Control Act.

On June 26, we conveyed to Justice State's strong support for vigorous prosecution of the case, based on our strong foreign policy interests in rigorous enforcement of non-proliferation controls. Vaid and two alleged accomplices were indicted on July 16 on charges of violation of the Arms Export Control act, federal false statement statutes and conspiracy.

In August, we learned that the Assistant U.S. Attorney in Houston was considering a plea bargain. We were concerned that a plea bargain could be misread. In late August we informed Justice that, while we recognized that Justice had the responsibility for such decisions on the conduct of Federal prosecutions, State believed this prosecution warranted the most vigorous federal action and that any appearance that we were not proceeding within the full limits of U.S. law could affect our ability to persuade other nations to take effective action against similar alleged violations, and would be detrimental to important foreign policy and national security interests, particularly the credibility of our non-proliferation policy.

REVIEW AUTHORITY: Sharon Ahmad, Senior Reviewer

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DECL: OADR

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-2-

On September 18, 1984, the day before the trial was scheduled to begin, the plea bargain was struck. In return for Vaid's guilty plea to the Arms Export Control Act charge, the other charges were dropped. On October 22, 1984, U.S. District Judge DeAnda suspended the imposition of sentence and ordered Vaid deported.

Toward the end of October 1984, Seymour Hersh began making phone calls to staff in L and other bureaus. Hersh appears to have gotten the impression from the Assistant U.S. Attorney in Houston that because of the foreign policy sensitivities of the case the State Department -- and the Administration -- had deliberately soft-peddled the Vaid prosecution. We told Hersh that this was not true, and later, using cleared guidance and with the assistance of the Press Office, reaffirmed this point to Hersh.

Other issues may be raised about State conduct in connection with this case. First, at the time of the initial arrests, the judge issued a protective ("gag") order prohibiting public comment by the prosecution or defense. The Times article suggests this was part of our effort to soft-peddle the case for foreign policy reasons. However, we did not learn about this protective order until after the fact.

After the Vaid arrest, INR alerted collection agencies and undertook to have passed to Justice some intelligence information that provided indications of a linkage between the Karachi firm, of which Vaid is the Managing Director, and the A.Q. Khan Research Laboratories near Islamabad. INR is checking whether the relevant U.S. intelligence agency carried out our request. We also note that the Hersh article indicates that Vaid had in his possession at the time of his arrest letters which would have directly linked him to the Pakistan nuclear explosives effort, but Justice did not make us aware of these letters; indeed we did not learn of them until after the case was concluded.

INR notes that it received no requests to either confirm the non-peaceful use to which krytrons would probably be put or to assess the role of Pakistani Government officials in directing Vaid's procurement actions. Neither would have had a bearing on the charges against Vaid, who pleaded guilty to violating the Arms Export Control Act. Moreover, the prosecutors were apparently reluctant to put the case at risk through introduction of classified U.S. Government information.

Attachment:

New York Times Article.

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Clearances:

NEA: RPeck
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