



United States Department of State

Washington, D.C. 20520

MEMORANDUM

RELEASED IN FULL

March 5, 1985

TO: PA - Mr. Djerejian

FROM: L/N - Ronald J. Bettauer **DJB**

SUBJECT: Vaid Case

Attached is the guidance with the revisions and additions we agreed to at your meeting yesterday afternoon. I have reviewed the changes with Mr. Tafe of the Justice Department Criminal Division.

Attachment:

As stated.

cc: L

L/NEA	- Mr. Robinson
L/LEI	- Mr. McGovern
NEA	- Mr. Matheson
NEA/PAB	- Ms. Stessalavage
	- Mr. Kreczko
NEA/P	- Mr. Levitt
S/NP	- Mr. Peck
	- Mr. Hagerty
NEA/N	- Mr. Larocco
OES/NEP	- Mr. Austrian
	- Mr. Wonder
	- Ms. Mullen
OES/NEC	- Mr. Devine
PM/MC	- Mr. McGoldrick
PM/RSA	- Mr. DeThomas
INR/PMA	- Mr. Stoiber
ACDA/NWC/INA	- Mr. Bryant
Justice/Criminal	- Mr. Aoki
	- Mr. Upchurch
	- Mr. Sloss
	- Mr. Tafe
	- Mr. Roos
	- Mr. Russell
Justice/Civil	- Mr. Dessen

REVIEW AUTHORITY: Sharon Ahmad, Senior Reviewer

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Contingency Press Guidance

Vaid Case (March 5, 1985, PBS Documentary and
February 25, 1985 New York Times Article)

Contingency Statement (If Vaid Case is Raised)

- The State Department consistently considered this a very serious matter.

- We learned about the arrests shortly after they occurred in late June 1984. From that time until sentencing of Vaid in late October 1984, State stayed in touch both with the Criminal Division of the Justice Department and the U.S. Attorney's Office in Houston.

- The Justice Department had primary responsibility for the prosecution, as well as the responsibility to make decisions on how to proceed with the prosecution.

- The State Department repeatedly stressed to Justice its view that the 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 effect 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

-2-

-- Obviously, given the gravity with which we view such offenses, we prefer appropriately stiff sentences. That is why the State Department has proposed to Congress legislation to increase the penalty for violation of the Arms Export Control Act. The applicable penalty at the time of Vaid's sentencing was 2 years and/or \$100,000. The recently enacted Criminal Fine Enforcement Act of 1984 allows the fines to be increased to \$250,000 for individuals and \$500,000 for organizations. The State Department has proposed that the penalties be increased to a maximum of 10 years/\$1 million. [This proposal has been in the proposed Foreign Assistance Authorization Bill for the last 3 years; Congress has not acted on this legislation.]

-- Concerning this case, we note that the exports were stopped through the effective work of the Customs officials and that Vaid was arrested, imprisoned for 4 months, pleaded guilty to and was convicted of a criminal charge, and deported from the United States. [The maximum prison term was two years; a person is eligible for parole after service of one third of his sentence, in this case 8 months. Note that Vaid also got 5 years (unsupervised) probabtion.]

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Contingency Press Guidance

Vaid Case (March 5, 1985, PBS Documentary and
February 25, 1985 New York Times Article)

Contingency Qs and As

Q: The N.Y. Times article says three documents in Vaid's possession at the time of his arrest suggest a link to the Pakistani government. How do you respond to that?

A: The Department of State was not aware of these documents prior to the conclusion of the case. We have just received copies and will review them carefully. I would note, however, that even if the documents do indicate that Vaid was in contact with Pakistani officials, this would not have affected the nature of the charges against him.

Q: If a link between Vaid and the Pakistani government had been established, could Vaid have been prosecuted under more charges under the Atomic Energy Act or the Export Administration Act, as the N.Y. Times article alleges?

A: No. There are no provisions under either of those acts that are relevant. A link to the Pakistani government would, as I understand it, have had no relevance to the prosecution under the Arms Export Control Act. The violation under the Arms Export Control Act involved exporting the switches without a State Department license, and Vaid was caught red-handed. A link to the Pakistani government is not an element of this crime and would not have been relevant to conviction. Nor is there a more serious offense for which Vaid could have been charged if a link to the Pakistani Government had been established.

REVIEW AUTHORITY: Sharon Ahmad, Senior
Reviewer

-2-

Q: But would establishing a link to the Pakistani government have affected the sentencing of Vaid?

A: I am not in a position to speculate about that.

Q: Did the Department withhold any information from the Justice Department?

A: We cooperated fully with the Justice Department.

Q: Did the State Department ever suggest to Justice that the prosecution be handled in a low key manner in order to avoid adverse foreign policy impacts?

A: No. To the contrary, as I said earlier, the State Department consistently impressed on the Justice Department the importance it attached to vigorous prosecution of the case.

Q: Did the State Department oppose the plea bargain?

A: Decisions on plea bargains are the responsibility of the Justice Department and the prosecutor. The State Department did stress to the Justice Department the importance it attached to the case and that it believed that the laws relating to the export control of nuclear-related items should be vigorously enforced.

Q: Would the Symington and Glenn amendments to the Foreign Assistance Act (sections 669-670) have deterred Pakistan from seeking to purchase this equipment if a waiver had not been in effect?

A: No. Those amendments cover transfers of enrichment and reprocessing equipment, transfers of nuclear explosive devices, and detonations of nuclear explosive devices. The equipment in question would not have triggered those amendments.

-3-

Q: In order to deter nations from seeking to purchase such equipment illegally in the U.S., shouldn't we amend the law to make such transactions trigger a cut off of the same economic and military assistance covered by sections 669-670?

A: There are existing prohibitions and criminal penalties for export of items without required licenses, and we watch nuclear-related items with particular care. The State Department, however, believes more needs to be done. That is why we proposed to Congress legislation to increase the penalties for violations of the Arms Export Control Act. We believe, this would have an important impact in deterring would-be violators.

Q: Can you comment on how close Pakistan is to building a nuclear explosive device, in particular whether Pakistan already has enriched uranium and plutonium for such a device?

A: We do not believe Pakistan now has nuclear explosive devices nor that it is currently in a position to manufacture them. As you know, the U.S. has repeatedly expressed its concerns over the Pakistan nuclear program and has made it clear that we would be unable to sustain our security assistance program unless Pakistan shows restraint in the nuclear area. The Government of Pakistan is well aware of these concerns and has assured us that their nuclear program is peaceful in intent.

-4-

Q: Why do we provide the Pakistanis military assistance if we believe they are engaged in a nuclear explosives program?

A: We believe that a program of support which enhances Pakistan's security may help remove the principal underlying incentive for the acquisition of a nuclear weapons capability. Over time, we hope to persuade Pakistan that the pursuit of such a capability is neither necessary, desirable, nor in its broader security interest.

Q: Is any other country assisting the Pakistani nuclear program?

A: I have nothing for you on that.

Q: Is Pakistan engaged in similar procurement activity in other countries?

A: I note that there have been prosecutions in The Netherlands and Canada relating to the Pakistani nuclear program. As a general matter, the U.S. coordinates with other governments on nuclear export controls, but I can provide nothing further on whether Pakistanis have undertaken similar procurement efforts in other countries.

-5-

Q: Did the Department cooperate with Hersh on the story?

A: Yes. Hersh had two on-the-record interviews with Department officials and a number of officials discussed his questions with him informally on the telephone.

Drafted by:: *PAB*
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