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Background to the Solarz Amendment

In June 1985 Nazir Ahmed Vaid, a Pakistani national, was convicted in U.S. federal court of attempting to export illegally 50 krytron microswitches from the U.S. These switches can be used as part of a firing set for a nuclear explosive device and are controlled by the Office of Munitions Control under the Arms Export Control Act. Circumstances surrounding the investigation of this case and its final outcome led to charges that the State Department had deliberately soft-peddled the Vaid prosecution due to the foreign policy sensitivities of the case.(C)

Several steps were taken which had the effect of reducing publicity about the case and of reducing the potential jail sentence that Vaid would face:(U)

-- A gag order was approved by the Federal judge in the case barring all of the participants from any public comment.(U)

-- The prosecuting attorneys in the case rewrote the original indictment to exclude any mention of the possible nuclear use of a krytron.(U)

-- Vaid was permitted to plea-bargain to a reduced charge, thereby avoiding a public trial and cutting his potential sentence from twelve years to two. Subsequently, Vaid was found guilty under the Arms Export Control Act of one count of violating American export law. He was given the mildest sentence possible and deported within three weeks.(U)

Pakistan's Ambassador to the U.S. denied that Vaid had any official connection to the Pakistani Government, claiming that he was operating in an "individual capacity as a private businessman of Pakistan." Vaid himself asserted that he was an innocent Pakistani exporter and that he had purchased the krytrons for university research in Pakistan. At the time of Vaid's arrest, however, several letters were found in his possession directly linking him to S.A. Butt, who is an official of the Pakistan Atomic Energy Commission (PAEC). No attempt had been made to cover up Butt's identity. He was addressed in the letters as the director for research and development at the PAEC.(S)

Given the nature of the commodity involved and intelligence information sources, there was no doubt that Vaid's business activities were conducted on behalf of Pakistani Government officials. But the issue of Pakistani Government involvement in the case was irrelevant as there was at the time no more serious offense for which Vaid could have been charged had such a link been established.(S)

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The leniency of Vaid's sentence and the attempts to downplay Pakistani Government involvement in the case, set the stage for passage of new legislation designed to cover any future such attempts to procure goods for use in a nuclear explosives program. In 1985, the Solarz Amendment was passed stipulating that no U.S. assistance could be given any non-nuclear weapons state which illegally exported, or attempted to export, from the U.S. materials, equipment, or technology that would contribute significantly to the ability of that country to manufacture a nuclear explosive device. This includes exports or attempted exports by a person "who is an agent of, or is otherwise acting on behalf of or in the interests of, a country..."(U)

Since Vaid's indictment, two Pakistani procurement cases, including the Arshad Pervez case, have become the subject of U.S. criminal investigations. One of these cases pre-dates the Solarz Amendment, however, and thus does not require a determination pursuant to that Amendment.(U)

After the arrest of Pervez, a Pakistani delegation came to the U.S. to discuss Pakistani procurement activities and the U.S. export control regime. The meeting provided an opportunity to discuss in detail U.S. export control laws and regulations and to ensure a clear understanding on the part of the Government of Pakistan that U.S. law strictly precludes export of U.S.-origin goods worldwide for use in Pakistan's unsafeguarded nuclear program. The meeting also served to demonstrate to the Pakistanis the extent of our knowledge regarding Pakistani illegal procurement efforts and to make clear to them that future clandestine procurement activities would be noticed by the U.S. and would further jeopardize the U.S.-Pakistani relationship.(S)

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