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By SC NARA Date 5/15/10

To Mr. Attaway 6/25/77

Fyi - Per our discussion

Warren

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By SC NARA Date 5/15/10

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DEPARTMENT OF STATE

ACTION MEMORANDUM

S/S FW 6-23

June 23, 1977

CONFIDENTIAL

TO: The Acting Secretary

THROUGH: P - Mr. Habib

FROM: NEA - Alfred L. Atherton, Jr.
H - Douglas J. Bennet, Jr.

SUBJECT: Pakistan's Purchase of a Nuclear Fuel Reprocessing Plant: The Symington Amendment and Consultations with Congress

ISSUE FOR DECISION

There have been recent press reports on the transfer of reprocessing technology to Pakistan. The fact of these transfers is not new--indeed most of them probably took place in early 1976--but the current press attention may spark press and Congressional inquiries as to why we have not applied the Symington Amendment which would require the termination of all economic assistance to Pakistan. We think it would be useful to take the initiative to consult informally this week with key members of Congress and their staffers to describe where we are on this matter and our reasons for not applying the Symington Amendment at this time.

ESSENTIAL FACTORS

A recent article in a U.S. trade publication, Nucleonics Week, quotes the President of the French firm St. Gobain (prime contractor for the reprocessing plant) to the effect that St. Gobain has delivered about 95 percent of the reprocessing plant plans, covering all basic features including the fuel element chopping machine. The statement was made that the Pakistanis are now in a position to go ahead with construction of the nuclear fuel reprocessing plant whether or not further transfers of technology or equipment actually take place. On June 18, the Washington Post also carried a report of technology transfers which have taken place and the presence of French nuclear consultants in Pakistan. Congressman Bingham has already asked Joe Nye about these stories

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and we expect further queries on the status of negotiations with the French and/or Pakistanis and why we have not yet applied the Symington Amendment.

The Symington Amendment requires us to terminate economic and military assistance if Pakistan receives reprocessing equipment, material or technology. However, the Office of the Legal Advisor believes that an immediate termination is not required so long as we are negotiating in good faith with the Pakistanis and/or French to prevent the delivery or construction of the plant and we have a reasonable chance to achieve this objective.

Our information on the extent of transfers of technology is not complete. We have no basis to challenge St. Gobain's statement that the basic blueprints have been transferred. We doubt, however, that these drawings, in themselves, would permit the Pakistanis to construct a plant without further French assistance. Our view is reinforced by the fact that Pakistan has unsuccessfully sought reprocessing assistance elsewhere. Up to now, the French have been cooperative in delaying shipments of sensitive equipment, particularly of the most vital element in the plant, the chopping machine.

We have asked the French to cancel or indefinitely defer the contract and this remains our best hope for resolving the problem, but the chances of the French accepting our position in isolation from other nuclear questions of interest to France are slight in view of the political implications in France of this question. We are currently considering entering into a broad negotiation on nuclear policy with France and a separate decision memorandum posing various options for these negotiations will be sent to you shortly. One of the options will be to seek French agreement to cancel the Pakistanis' contract as one quid pro quo for concessions which the French seek from us. Obviously, invocation of the Symington Amendment, especially at this point in U.S.-Pakistan relations, would be highly damaging.

Ideally we would prefer to await the outcome of these negotiations before we consult with key Congressional figures. However, our initiative in approaching Congress at this point would demonstrate our continued desire to

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achieve the objectives of the Symington Amendment. If these consultations go well it could reduce the likelihood of Congressional pressure to cut off aid to Pakistan, thus precipitating a new crisis in our bilateral relations.

What we have in mind is a general approach to key staffers and members of Congress reviewing the actual state of transfers of technology, pointing out that the French have been cooperative up to now and that we intend to pursue the issue with the French. Our position would be that application of the Symington Amendment would further damage our relations with Pakistan and could greatly reduce our chances of obtaining French cooperation.

Therefore, our continuation of assistance while we continue our efforts to prevent Pakistan from acquiring a reprocessing capability is consistent with the legislative intent of the Symington Amendment. We would promise to continue to keep the Congress informed.

do it really? Can we make a persuasive case that the Amendment is not yet applicable — or are we just asking for (a) forbearance or (b) Triple?

THE OPTIONS

We have the choice of waiting to see whether we receive further questions from Congress or moving first in an attempt to establish our bona fides and reduce the impact of potentially hostile questions.

Recommendations:

That you authorize us to consult with key Congressional figures immediately.

Approve _____ Disapprove _____

ALTERNATIVELY, that we take no initiative with the Congress but take the stance outlined above if questions are raised.

Approve _____ Disapprove _____

Drafted:NEA/PAB:PWLande/mw
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Clearances: PM/NPO:Mr. McGuinness (draft) L/PM:Mr. Michel (draft)
OES/NET:Ms. Coon (draft) EUR/RPE:Mr. Salisbury
T: Dr. Nye PM/EM AID:Mr. Adler (draft)

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Authority NND 52947
By SE NARA Date 5/19/10

DEPARTMENT OF STATE

Washington, D.C. 20520

June 24, 1977

LIMITED OFFICIAL USE

To: D - Mr. Lamb

From: NEA/PAB - Peter W. Lande

Subject: Symington Amendment

In response to your questions, H has identified Senators Ribicoff and Glenn and Congressmen Bingham and Zablocki as the key Congressmen to contact on nuclear questions. In addition, we would wish to contact two or three key staffers. As you know from the memorandum, Congressman Bingham has already been briefed by Joe Nye. AID is considering whether it wishes to have a few additional Senators and Congressmen in key positions on AID legislation briefed on this subject. We are not sure what AID's decision will be but in any case it will not involve more than two or three Congressional figures. The briefings would probably be carried out by someone from H and someone from either T or NEA.

Your second question related to what types of economic assistance would be eliminated under the Symington Amendment. The Symington Amendment only applies to bilateral development loans and grants and military training grants, i.e. it does not apply to Title I and Title II. There is still some dispute whether the Symington Amdnement would apply retroactively, i.e. whether we would have to terminate all disbursements for AID agreements signed prior to the application of the Symington Amendment. We have allotted $98 million for loans and grants to Pakistan in FY 1978.