August 29, 1987
Department of State Telegram 270161 to Embassy Ottawa, 'Access to Canadian Documents in Pervez Case'

Citation:

Summary:
The Canadian government cooperated with the US Justice Department in the Pervez case by seizing documents at his and making them available to federal prosecutors. The State Department wanted permission to review the documents “on the premises of the U.S. law enforcement authorities.”

Credits:
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Original Language:
English

Contents:
- Scan of Original Document
September 4, 1987

TO: NFA - Mr. Peck
    P - Mr. Eastham
    OES/MEP - Mr. McGoldrick
    S/NEP - Mr. Samore
    L/LEI - Mr. Stewart
    EUR/CAN - Mr. Gray
    ACDA/NWC - Ms. Ward

FROM: L/N - Ted A. Borek

SUBJECT: Draft Note to Canadians on Pervez Documents

I spoke with Dwight Mason at Embassy Ottawa and alerted him to expect a redraft of the proposed Embassy note transmitted in Ottawa's 07389 (attached). Attached for clearance or comment at your earliest possible convenience is a first cut at same. In the interest of time I am sending this around as I continue to edit it further. This should go out today if we are to resolve the issue once and for all early next week. I can be reached at x71043.

Thanks in advance.

Attachment:

As stated.

[REVIEW AUTHORITY: Sharon Ahmad, Senior Reviewer]

cc: L - Mr. Kozak
SECRET
UNCLASSIFIED

Department of State

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ALERTED: T. BOREN, L/UNA FOR PICKUP

ACTION 55-R

INFO LEG-08 COPY-00 AOD-08 550-B 0851

O 0316242 SEP 07

FM AMBASSAD OTTAWA TO SECSTATE WASHINGTON IMMEDIATE 8461

SECRET OCT 87389

DECLASSIFIED

EXDIS

PL1 ALERT TED BOREN L/UNA 371443 IMMEDIATELY FOR PICKUP

E.D. 12556: DEC: 01989

SUBJECT: ACCESS TO CANADIAN DOCUMENTS ON PERVEZ CASE

REF: IA STATE 264692, (b) OTTAWA 7137, (c) STATE 279161

1. SECRET/EXDIS ENTIRE TEXT.

2. EXTRACT CALLED US LATE SEPTEMBER 2 TO SAY THAT DOC WAS IN PRINCIPLE WILLING TO GRANT ACCESS TO PERVEZ DOCS PROVIDED WRITTEN REQUEST STATING WHAT DOCUMENTS NEEDED, FOR WHAT PURPOSE, AND WHO WOULD HAVE ACCESS WAS MADE BY NOTE.

2. DRAFT NOTE FOLLOWS:

-- SECRET/CONF

-- THE EMBASSY OF THE UNITED STATES OF AMERICA PRESENTS ITS COMPLIMENTS TO THE DEPARTMENT OF EXTERNAL AFFAIRS AND HAS THE HONOR TO REQUEST ACCESS FOR THE DEPARTMENT OF STATE TO CERTAIN CANADIAN DOCUMENTS RELATING TO THE UNITED STATES' PROSECUTION OF ARSHAD PERVEZ ON CHARGES STEMMING FROM AN ALLEGED EFFORT TO EXPORT NUCLEAR-RELATED MATERIALS FROM THE UNITED STATES TO PAKISTAN.

-- THE DOCUMENTS FOR WHICH ACCESS IS REQUESTED ARE THOSE WHICH THE GOVERNMENT OF CANADA PROVIDED TO THE UNITED STATES DEPARTMENT OF JUSTICE THROUGH LAW ENFORCEMENT CHANNELS AND WHICH ARE NOW IN THE HANDS OF THE UNITED STATES ATTORNEY IN PHILADELPHIA. COPIES OF THOSE DOCUMENTS ARE ALSO AT THE DEPARTMENT OF JUSTICE IN WASHINGTON.

-- THE PURPOSE OF THIS REQUEST IS TO ASSIST THE DEPARTMENT OF STATE IN MAKING A FULLY INFORMED RECOMMENDATION TO THE PRESIDENT OF THE UNITED STATES AS TO WHETHER OR NOT THE "SOLARZ AMENDMENT" (22 U.S.C. 2426A) HAS BEEN TRIGGERED AS A RESULT OF THIS CASE. THE DEPARTMENT OF STATE IS THE AGENCY REQUIRED BY LAW TO ADVISE THE PRESIDENT ON THIS POINT. AMONG THE ELEMENTS WHICH THE DEPARTMENT OF STATE MUST CONSIDER IN MAKING THIS RECOMMENDATION ARE WHETHER OR NOT AN ILLEGAL EXPORT OR ATTEMPT TO EXPORT WAS OCCURRED; THE DEGREE OF FOREIGN GOVERNMENT RESPONSIBILITY, IF ANY, FOR THE ILLEGAL EXPORT; THE TECHNICAL SIGNIFICANCE OF THE COMMODITIES IN QUESTION FOR THE RECIPIENT COUNTRY'S ABILITY TO MANUFACTURE A NUCLEAR EXPLOSIVE DEVICE; AND WHETHER OR NOT THOSE COMMODITIES WERE IN FACT INTENDED TO BE USED IN THE MANUFACTURE OF A NUCLEAR DEVICE.

-- THE DEPARTMENT'S NEED FOR ACCESS WOULD BE SATISFIED BY AN EXAMINATION OF THE CANADIAN-SUPPLIED MATERIAL NOW IN THE POSSESSION OF THE UNITED STATES ATTORNEY IN PHILADELPHIA OR IF COPIES OF THOSE DOCUMENTS ALSO EXIST IN WASHINGTON. THE DEPARTMENT OF STATE DOES NOT NEED A SET OF THESE DOCUMENTS FOR ITSELF.

-- THE RECOMMENDATION SENT TO THE PRESIDENT (AND MEMORANDUM RELATING TO THAT RECOMMENDATION) WILL BE CLASSIFIED AND CLOSELY HELD WITHIN THE UNITED STATES GOVERNMENT. COPIES OF CANADIAN-SUPPLIED DOCUMENTS WILL NOT BE ATTACHED. IN THE EVENT THAT THE PRESIDENT DECIDES THAT IT WAS NECESSARY TO INVOKE THE SOLARZ AMENDMENT, HIS DETERMINATION WOULD BE UNCLASSIFIED BUT WOULD NOT DISCLOSE OR CITE ANY OF THE EVIDENCE IN THE CASE, AND THE UNITED STATES DOES NOT ANTICIPATE ANY NEED TO REFER PUBLICLY TO THE SPECIFIC SOURCES OR NATURE OF THAT EVIDENCE IN THAT FINDING.

-- THE EMBASSY IS ALSO INSTRUCTED TO POINT OUT THAT THE OUTCOME OF THIS ASSESSMENT IS NOT A FOREGONE CONCLUSION, AND THERE MAY WELL BE NO PUBLIC PRESIDENTIAL DETERMINATION RESULTING FROM THIS CASE.

-- THE PARTY FOR Whom ACCESS IS REQUESTED WILL BE SMALL AND WILL WORK UNDER THE DIRECT SUPERVISION OF THE LEGAL ADVISOR OF THE DEPARTMENT DOTE JUDGE ABBREH SOFAER.


-- END DRAFT.

MILES

BEST COPY AVAILABLE

REVIEW AUTHORITY: Sharon Ahmad, Senior

UNCLASSIFIED U.S. Department of State Case No. M-2008-00012 Doc No. C17625635 Date: 03/14/2013