

MEMORANDUM

cc D10/PI

D10/PI/AT

Van: DRW/AT (van Galen Last)

Datum: 4 maart 1980

Aan: AVT/EN (Hr. N.G. Hazalhoff)

No.: 31/80

Onderwerp: Rapport Khan

Onder verwijzing naar ons telefoongesprek van 3 maart jl. deel ik U mede dat ik het definitieve rapport zoals dat nu gepubliceerd is (Nederlandse versie) heb vergeleken met de Engelse versie van oktober 1979, alsmede met de daarop aangebrachte amendementen, eveneens in het Engels. Het is mij daarbij opgevallen dat door tussentijdse, vermoedelijk door het Ministerie van EZ aangebrachte veranderingen in de Nederlandse tekst, de beide versies niet meer identiek zijn. Daar van vele zijden om een Engelse tekst van het definitieve rapport gevraagd wordt, en ook de Troika-partners (het VK en de BRD) daarover de beschikking dienen te krijgen, is het gewenst dat de vertaling van oktober jl. up to date wordt gebracht. Mede gezien de politieke delicaatheid van deze materie mag het nl. niet gebeuren dat, van elkaar verschillende, versies, gaan circuleren.

Ik heb overigens de indruk dat het grootste gedeelte van de Engelse vertaling wel gehandhaafd kan blijven. Ik moge U verzoeken deze aanpassing op Uw Afdeling te laten uitvoeren. Ik zou mij kunnen voorstellen dat hiervoor enige tijd benodigd is, maar hoop dat de up to date gebrachte versie over niet al te lange tijd beschikbaar zal zijn.

T.a.v. de aanpassing moge ik U ook opmerkzaam maken op de nieuwe titel van het rapport.

Dzz. zal ervoor zorg worden gedragen dat de aanduidingen (secret etc.) verwijderd worden.

Ik dank U bij voorbaat voor Uw medewerking, waarbij ik de hoop uitspreek dat het de laatste maal is dat wij U over deze zaak behoeven lastig te vallen.

./.
(Een vertaalbon gaat hiernevens.)

M. H. I., S., PLVS, DGPZ, DGES, DGIS, plv. DGIS, AMAD, VADV, JURA,
DWAH, DAM, DOA, DIE, DES, DIO, DFO, DTH, DRW, DAV, DKP, DAZ, AP, DBD, DCV,

DE ZAAK KHAN
LONDEN. BONNEN. ZÜRICH. Wenen

26 februari 1980

No. 108

DE ZAAK KHAN

De leden van de Tweede Kamer de heren Van der Stoep en Ter Beek (beiden PvdA) hebben aan de Minister-President, Minister van Algemene Zaken, de Ministers van Buitenlandse Zaken, van Economische Zaken en van Binnenlandse Zaken, op 28 januari 1980 de volgende schriftelijke vragen gesteld.

1. Kunnen de ministers de juistheid bevestigen van de mededeling van de Britse staatssecretaris Lamont in het Lagerhuis op 18 december jl. dat, in strijd met de afspraak dat burgers van andere dan in het Verdrag van Almelo samenwerkende staten alleen toegang zouden hebben tot de vertrouwelijke informatie inzake het ultracentrifugeproces, met uitdrukkelijke toestemming van het in het kader van dit verdrag ingestelde Brits-Duitse-Nederlandse joint committee, de Pakistaanse staatsburger Dr. Kahn in de periode 1972-1975 zich zodanig binnen Nederland heeft kunnen bewegen dat "he may well have been in a position to gain access to confidential information about the centrifuge process"?

2. Kunnen de ministers de verklaring van de Britse staatssecretaris bevestigen: "...nor, as required by the treaty of Almelo, was the apparent breach of security reported to the joint committee until long after it occurred"?

Zo ja, waarom is dit nagelaten?

3. Delen de ministers het oordeel van de Britse staatssecretaris dat de consequenties van wat is gebeurd mogelijk zeer verreichend zijn?

4. Kunnen de ministers, indien het antwoord op vraag 1 geheel of gedeeltelijk bevestigend luidt, met inachtneming van het vertrouwelijk overleg in de vaste kamercommissie voor de Inlichtingen- en Veiligheidsdiensten, thans eindelijk opheldering verschaffen over de volgende vragen:

a. Hoe kan worden verklaard dat op zo ontstellend nonchalante wijze een in overleg met de partners van het Verdrag van Almelo gemaakte afspraak terzijde is geschoven, en dit terwijl de veiligheidsrisico's rond het ultracentrifugeproject zo evident zijn, zeker voor de autoriteiten van een land dat het tegengaan van het gevaar van de spreiding van kernwapens in het internationale overleg steeds zozeer op de voorgrond heeft gesteld?

b. Treft ook de leiding van de betrokken bedrijven blaam?

c. Is overeenstemming met de regeringen van de Duitse Bondsrepubliek en het Verenigd Koninkrijk over de maatregelen, noodzakelijk om herhaling van het gebeuren te voorkomen?

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Externe
Betrekkingen

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Postbus 20181
500 EC 's-Gravenhage
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Telex 31089 ecza nl

Dit is gedrukt op kringloop papier

De Minister van Economische Zaken, drs. C.H.V. van Ardenne, hoe mede namens de Minister President, Minister van Algemene Zaken, mr. A.A.M. van Agt, de Minister van Buitenlandse Zaken, dr. C.A. van der Klaauw en de Minister van Binnenlandse Zaken, dhr. H. Wiersma, deze vragen als volgt beantwoord.

I. Bijzondere vragen.

Binnenkort zal aan de Vaste Kamercommissies voor Buitenlandse Zaken, Economische Zaken en Kernenergie het rapport van een interdepartementale werkgroep betreffende de zaak Khan worden aangeboden. Een gedachtenwisseling met de Kamer, waarin de gestelde vragen kunnen worden behandeld, is dan mogelijk op de grondslag van een vollediger beeld dan door de beantwoording van de vragen is te verkrijgen.



With the compliments of

CHANCERY

(J. A. SHEPHERD)

BRITISH EMBASSY

LANGE VOORHOUT 10 THE HAGUE

Telephone 64 58 00

NUCLEAR SECURITY

Q53. Mr. Balyell asked the Prime Minister if she discussed with Chancellor Schmidt at her meeting on 23 February, the leakage of nuclear information to Pakistan from the joint centrifuge project at Almelo, Holland in the light of the Khan affair; and if she will make a statement.

The Prime Minister: I have not had any discussion with Chancellor Schmidt about the Khan affair. But we have been keeping in close touch with our partners about follow-up action, and on 11 February my right hon. Friend the Secretary of State for Energy wrote to Mr. van Andorno, the Netherlands Minister for Economic Affairs.

Q53

Written Answers

11 MAR

On 29 February the Netherlands Government sent the report of their investigation into the circumstances of the Khan affair to their Parliament. The Netherlands Government have said that they deeply regret what has occurred and that they will do their utmost to ensure there is no repetition.

My right hon. Friend will place an English translation of the Netherlands Government's report in the Library as soon as it is available.



British Embassy
Lange Voorhout 10
THE HAGUE

2 April 1980

Mr A J van Galen Last
Ministry of Foreign Affairs
Hoge Nieuwstraat 18
The Hague


Dear Mr. van Galen Last,

I have been asked to send you the enclosed copy of a Parliamentary Question to Lord Avebury which was answered in the House of Lords of 25 March. As you will see the question relates to the English translation of the Khan Report.

Yours sincerely,

A. Adams

Miss Alexandra Adams



DEPARTMENT OF ENERGY

The Lord Avebury -- To ask Her Majesty's Government whether they will have an English translation made of the report to the Dutch Parliament concerning the activities of the Pakistan spy Dr Abdel Khader Khan; whether they will place a copy of the translation in the Library of this House, and whether in the meanwhile they will make a statement on the capability of Pakistan to develop a centrifuge enrichment plant; whether or not Pakistan has developed or intends to develop such a plant, and what additional security measures are being taken to prevent the transfer of this technology to nations that have not signed the Non Proliferation Treaty.

The Earl of Gowrie

On 29 February 1980 the Netherlands Government sent the Report of their investigation into the circumstances of the Khan affair to the Netherlands Parliament. The English translation of this report is not yet available, but I will lay a copy of it in the Library as soon as possible.

It is not the Government's intention to issue a statement about Pakistan's nuclear programme. There have been press reports, based on interviews with members of the Pakistan Government, suggesting that Pakistan are developing an unsafeguarded uranium enrichment facility. The authorities in Pakistan are well aware from our exchanges with them of the concern this causes us.

The security rules and procedures of the tripartite uranium enrichment collaboration are designed to prevent the unauthorised disclosure of classified information. They have been reviewed, in the light of the Khan affair, and their implementation has been strengthened to prevent a repetition.

Any specially designed items of equipment for use in a centrifuge enrichment plant are under export control from the UK to all destinations.

cc. D/O/Pi
E.C. Feijersd



With the compliments of
CHANCERY

BRITISH EMBASSY
LANGE VOORHOUT 10 THE HAGUE
Telephone 64 58 00

ENGLAND

Coal Mining Industry

Mr. Steel asked the Secretary of State for Energy how much has been paid in grants since the Coal Industry Act 1977 for the elimination of uneconomic capacity, the number of colliers affected and the mines transferred up to the most recent date for which figures are available and how much uneconomic capacity remains to be closed.

Mr. John Moore: The grants paid under section 6 of the Coal Industry Act 1977 have been £32 million to date. I am asking the chairman of the National Coal Board to write to the hon. Member about the other points raised.

National Coal Board

Mr. Steel asked the Secretary of State for Energy what use he has made of section 7 of the Coal Industry Act 1971 in the past year and whether he intends to give any directions to the National Coal Board as set out in the section for divestment of particular operations or the sale of assets.

Mr. John Moore: None, and I have no present plans to do so.

Mr. Steel asked the Secretary of State for Energy whether he has called for a report of National Coal Board activities or any part of them pursuant to section 6 of the Coal Industry Act 1971.

Mr. John Moore: No.

Quangos

Mr. Philip Holland asked the Secretary of State for Energy if he will list the committees, councils, commissions, and other official bodies to which he has appointed members other than civil servants that have been established by him since May 1979, and state in each case the names and full-time employments of those appointed.

Mr. David Howell: No such body has been established since May 1979.

Genoa (Dr. Khan)

Mr. Hussain asked the Secretary of State for Energy whether he has received a copy of the English translation of the report by the Netherlands Government on their investigation of the Khan affair.

Mr. Norman Lamont: Yes. A copy of English translation of the report is being sent with a copy of the translation of the report sent by the Netherlands Government to the Member for the Netherlands. It has been held in the Library of the House.

North Sea Oil Licensing

Mr. Viggers asked the Secretary of State for Energy whether he will make a statement on the seventh round of oil field licensing.

Mr. David Howell: I have today lodged in the House Library copies of a note describing the method of licensing I have decided on for the seventh round. I will share petroleum production licensing, and including a list and map showing the blocks for which I shall in due course be inviting applications for licenses. The principal features of the arrangements will be as follows:

a. My aim is to license approximately 10 blocks, of which at least 70 blocks will be in the area set aside for competitive selection.

b. I have listed 80 identified blocks for which I will be inviting applications, a maximum of 70 of the identified blocks will be licensed. In addition, companies will be able to apply for any block or blocks in their own selection, in a defined area of the coastal North Sea, as indicated in the details of one of the arrangements for the competitive selection. Companies will be required to make an initial payment of £5 million on grant of their licence for each block licensed to them in this competitive area.

c. Licences will be awarded by a normal discretionary method of allocation, by considering applications. I shall take into account the applicant's technical competence, and financial capability, and his previous performance and plans for the future, as well as other factors.

The amending regulations to amend the round and to modify certain modifications will be made and laid before the House as soon as possible. The Gazette notices inviting applications and setting the closing date for receipt of applications will be published when the regulations come into operation. The notices will also set out the arrangements to give BNEC a right of pre-emption to take at market value up to 25 per cent of the petroleum produced under the new licences.

The arrangements I have outlined have been determined fully, after consultation with interested organisations, and in the course of consultations that have taken place. It has been put to me that the hon. Member was particularly interested in the financial and production of the Mervel field, and that

Copy to:
Mr. Sheppard, The Energy
Mr. Macalister, Dover
Mr. Khan
JT 4/5

11.11.77

Coal Mining Industry

Mr. Street asked the Secretary of State for Energy how much has been paid in grants since the Coal Industry Act 1977 for the elimination of uneconomic capacity, the number of colliers affected and the names transferred up to the most recent date for which figures are available and how much uneconomic capacity remains to be closed.

Mr. John Moore: The grants paid under section 6 of the Coal Industry Act 1977 have been £32 million to date. I am asking the chairman of the National Coal Board to write to the hon. Member about the other points raised.

National Coal Board

Mr. Street asked the Secretary of State for Energy what use he has made of section 7 of the Coal Industry Act 1971 in the past year and whether he intends to give any directions to the National Coal Board as set out in the section for divestment of particular operations or the sale of assets.

Mr. John Moore: None, and I have no present plans to do so.

Mr. Street asked the Secretary of State for Energy whether he has called for a report of National Coal Board activities or any part of them pursuant to section 6 of the Coal Industry Act 1971.

Mr. John Moore: No.

Quangos

Mr. Philip Holland asked the Secretary of State for Energy if he will list the committees, councils, commissions, and other official bodies to which he has appointed members other than civil servants that have been established by him since May 1979, and state in each case the names and full-time employments of those appointed.

Mr. David Howell: No such body has been established since May 1979.

Uenco (Dr. Khan)

Mr. Humm asked the Secretary of State for Energy whether he has received a copy of the English translation of the report by the Netherlands Government on their investigation of the Khan affair.

Mr. Norman Funnell: Yes. A copy of English translation of the report is available with a copy of the translation of the letter sent by the Netherlands Government to the Netherlands Parliament. This has been laid in the Library of the House.

North Sea Oil Licensing

Mr. Viggers asked the Secretary of State for Energy whether he will make a statement on the seventh round of oil licence licensing.

Mr. David Howell: I have tabled in the House Library copies of a note describing the method of licensing I have decided on for the seventh round. I shall be petroleum production licences, and including a list and map showing the blocks for which I shall in due course be inviting applications for licences. The principal features of the arrangements will be as follows:

a. My aim is to license approximately 50 blocks, of which at least 20 blocks will be in the area set aside for company non-licensing.

b. I have listed 80 identified blocks for which I will be inviting applications. A maximum of 70 of these identified blocks will be licensed. In addition, companies will be able to apply for any block or blocks, of their own selection, in a defined area of the north sea North Sea, as indicated in the draft outline of the arrangements for the seventh round. Companies will be required to make an initial payment of £5 million on award of licence for each block licensed to them in this draft list.

c. Licences will be awarded by the normal discretionary method of allocation, i.e. considering applications I shall take into account the applicant's technical, economic and financial capability, and his previous performance and plans for the future, as well as other factors.

The amending regulations to govern the round and to modify certain model clauses will be made and laid before the House as soon as possible. The Gazette notices inviting applications and setting the closing date for receipt of applications will be published when the regulations come into operation. The notices will also set out the arrangements to give BNOG an option to take at market value up to 51 per cent. of the petroleum produced under the new licences.

The arrangements I have decided on have been determined following consultation with interested organisations, including the course of consultations that have been put to me that the Government is aware of, particularly in the Humber, Mersey and parts of the North Sea.

Copy to:
Mr. Chapman, Mr. Viggers
Mr. Viggers, Down
Mr. Viggers
JF 9/5

ENERGY

Coal Industry Industry

Mr. Street asked the Secretary of State for Energy how much has been paid in grants since the Coal Industry Act 1977 for the elimination of uneconomic capacity, the number of colliers affected and the amount transferred up to the most recent date for which figures are available and how much uneconomic capacity remains to be closed?

Mr. John Moore: The grants paid under section 6 of the Coal Industry Act 1977 have been £32 million to date. I am asking the chairman of the National Coal Board to write to the hon. Member about the other points raised.

National Coal Board

Mr. Street asked the Secretary of State for Energy what use he has made of section 7 of the Coal Industry Act 1971 in the past year, and whether he intends to give any directions to the National Coal Board as set out in the section for divestment of particular operations or the sale of assets.

Mr. John Moore: None, and I have no present plans to do so.

Mr. Street asked the Secretary of State for Energy whether he has called for a report of National Coal Board activities or any part of them pursuant to section 6 of the Coal Industry Act 1971.

Mr. John Moore: No.

Quangos

Mr. Philip Holland asked the Secretary of State for Energy if he will list the committees, councils, commissions, and other official bodies to which he has appointed members other than civil servants that have been established by him since May 1979, and state in each case the names and full-time employments of those appointed.

Mr. David Howell: No such body has been established since May 1979.

Urenco (Dr. Khan)

Mr. Hamman asked the Secretary of State for Energy whether he has received a copy of the English translation of the report by the Netherlands Government on their investigation of the Khan affair.

Copy to:
Mr. Street, The Midge
Mr. Hamman, Down
Mr. (Khan)
JT 9/5

Mr. Norman Lamont: No. A copy of the English translation of the report, together with a copy of the translation of the letter sent by the Netherlands Government to the Netherlands Parliament, has been held in the Library of the House.

North Sea Oil Licensing

Mr. Wingers asked the Secretary of State for Energy whether he will make a statement on the seventh round of offshore licensing.

Mr. David Howell: I have tabled a proposal in the House Library copies of a note describing the method of licensing I have decided on for the seventh round of offshore petroleum production blocks, and including a list and map showing the blocks for which I shall in due course be inviting applications for licences. The principal features of the arrangements will be as follows:

a. My aim is to license approximately 50 blocks, of which at least 20 blocks will be in the area set aside for company nomination.

b. I have listed 89 identified blocks for which I will be inviting applications, a maximum of 70 of these identified blocks will be licensed. In addition, companies will be able to apply for any block or blocks of their own selection, in a defined area of the northern North Sea, as indicated in the list. A rate of the arrangements for the seventh round will be required to make an initial payment of 15 million on grant of licence for each block licensed to them in this defined area.

c. Licences will be awarded by the normal discretionary method of allocation. In considering applications I shall take into account the applicant's technical competence and financial capability, and his previous performance and plans for the future, as well as any other factors.

The amending regulations to govern the round and to modify certain model clauses will be made and laid before the House as soon as possible. The Gazette notice inviting applications and setting the closing date for receipt of applications will be published when the regulations come into operation. The notice will also set out the arrangements to give JNOC a option to take at market value up to 51 per cent of the petroleum produced under the licences.

The arrangements I have decided on have been determined following consultation with interested organisations, including the course of consultation, the results have been put to me that the benefits of some areas, particularly in the Humber, Tyne and parts of the Mersey, have been

MEMORANDUM

Van: DIO/PI

Datum: 1 mei 1980

Aan: *M via GIS - 27/5*

No.: 22/80

Onderwerp: Zaak Khan

Bijgaand treffe U aan een concept-brief van M/EZ waarin o.m. namens U antwoord zou worden gegeven op het verzoek van de bijzondere Commissie uit de Tweede Kamer om nadere informatie over de zaak-Khan. Dit concept is hedenmorgen tot stand gekomen in ambtelijk overleg tussen de vier betrokken departementen. Het concept bevat een beredeneerde afwijzing van dat verzoek.

Gaarne verneem ik of U met dit concept kunt instemmen.

M via GIS - 27/5
abbeval
CS

het doorgeven aan E.L.
[Signature]
27/5

26/5

[Handwritten mark]

MINISTERIE VAN BUITENLANDSE ZAKEN

PLEIN 23 - 'S-GRAVENHAGE - TEL. 614941

Mr J.A. Shepherd
Embassy of Great Britain and Northern
Ireland
10 Lange Voorhout

2514 ED THE HAGUE

Dienstonderdeel:

Datum: 14 May 1980

Onderwerp:

Kenmerk:

Dear John,

In answer to your letter of 9 May 1980 I can give you the following information.

In the report on the "Khan-affair" a number of measures was announced which must prevent this sort of incidents in the future. One of those measures, and to which Mr Dalyell is referring, concerns the Export of Strategic Goods Decree of 1963. As already has been said in the report a new item 2.000 will be added at the end of the Annex to the Decree namely "Printed matter and other documents and other goods intended or suitable for the conveyance of information, insofar as they contain technology concerning the design, manufacture or use of the goods referred to in this annex, unless this information has been made known in generally accessible publications".

This item 2.000 will come into effect together with the new nuclear list which will replace the present items 0101 to 0141 of the Export of Strategic Goods Decree. I can inform you now that this new list will be finalised before this summer.

I hope that this information which of course can be used in public will be useful for your authorities.

*Yours
A.J. van Galen Last*

A.J. van Galen Last



Ministerie van Economische Zaken

De bijzondere commissie van de
Tweede Kamer der Staten-Generaal
belast met de behandeling van
Kamerstuk 16082 (de zaak Khan),
Binnenhof 1a,
2513 AA 's-Gravenhage.

2 juni 1980.

SG/80/105

's-Gravenhage,
Dir.-Gen./Hfd. Afd.
Kenmerk
(Gebouw) Toestel

Onderwerp

In antwoord op de namens U door de griffier van Uw commissie aan mij gezonden brieven van 9 en 29 mei j.l. moge ik U mede namens mijn ambtgenoten van Justitie, van Binnenlandse Zaken en van Buitenlandse Zaken het volgende mededelen.

Op een belangrijk deel van de door Uw commissie gestelde vragen kan geen antwoord worden gegeven zonder de doeltreffendheid van het justitieel onderzoek, dat sinds vorig jaar oktober gaande is, in gevaar te brengen. Deze omstandigheid maakt het onmogelijk te voldoen aan Uw wens om Uw commissie dezer dagen in het bezit te stellen van de antwoorden op bedoelde vragen.

De beantwoording zal kunnen plaatsvinden, zodra bovenbedoelde verhinderende omstandigheid zich niet langer voordoet. Naar het zich laat aanzien, zal dit in het komend najaar het geval zijn.

DE MINISTER VAN ECONOMISCHE ZAKEN,

(A) Be Zuidenhout-
seweg 30
(B) Laan van N.O.
Indië 123
(C) Pr. Beatrixlaan 7

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With the compliments of
CHANCERY

BRITISH EMBASSY
LANGE VOORHOUT 10 THE HAGUE
Telephone 64 58 00

FOREIGN AND COMMONWEALTH AFFAIRS

Ukrainian Exiles

Mr. Weetch asked the Lord Privy Seal what contacts he has had, whether on a regular or ad hoc basis, with Ukrainian exiles in the United Kingdom.

Mr. Blaker: We are not aware of any recent exiles or members of the Ukrainian community in the United Kingdom have approached the Foreign and Commonwealth Office.

New Hebrides

Mr. Roper asked the Lord Privy Seal when now he expects to be able to announce the date for independence for the New Hebrides.

Mr. Blaker: I would refer the hon. Member to the statement I made on 3 June in which I announced that Britain and France now accepted 30 July as the date of independence.—[Vol. 985, Col. 1247]

Oman

Mr. Nicholas Winterton asked the Lord Privy Seal whether he has any plans to visit Oman in the near future; and, if so, if he will seek to have discussions about the possibility of British troops being stationed in Oman.

Mr. Hurd: My noble hon. friend has no firm plans to visit Oman in the near future, though he hopes to do so before long.

There are no plans for British troops to be stationed permanently in Oman. We continue to provide loan-aided personnel for the Omani armed forces and to arrange joint exercises from time to time.

INDUSTRY

Steel Industry

Mr. Nicholas Winterton asked the Secretary of State for Industry what is the grand total of subsidies, grants and loans that have been given to the steel industry since it was nationalised; and what have been the grand total of losses or profits that the steel industry has incurred in each year since it was nationalised.

Mr. David Mitchell: I will reply to my hon. Friend as soon as possible.

Secretary of State for Industry
Manchester

Mr. F. D. King asked the Secretary of State for Industry if he will make a statement in regard to the document submitted by Manchester City Council on 16 January relating to Manchester's applications to be declared a development clean area.

Mr. David Mitchell: I will reply to the hon. Member as soon as possible.

ENERGY

Ureano

Mr. Dulyon asked the Secretary of State for Energy if in light of his view with the Dutch Government on their policy following the KRO incident, he will consider what measures can be taken to prevent as far as possible contraventions of the Netherlands Decree of the Export of Strategic Goods 1965 (Statute of 1965, Order and Decree 120) as referred to in the report by the Committee of the Second Chamber of the Netherlands States General, paragraph 50k.

Mr. Norman Lamont: I understand that the Netherlands Government are preparing a new list of restricted items, which will be based on the list of the Netherlands Export of Strategic Goods Decree. They also intend to issue a new item 2000 covering private matter and other documents dealing with technology of listed items.

I understand that the Netherlands Government expect to finish these changes by the end of June 1971.

Antarctica

Mr. Street asked the Secretary of State for Energy what is the present situation between United Kingdom, Australia and that purchased from abroad; and what is the total cost of imported supplies.

Mr. John Moore: From a survey of the costs of imported supplies we need as public and I estimate that they are on the order of £100 million per annum. That, for a country producing 100 million tons of oil, is a small amount.

of the recommendations of the Home Office (Cmd. 9123), the Home Office (Cmd. 957), and the report, 1969, Cmnd. 7732 of departmental responsibility for and for their internationalisation.

Mr. Blaker: I was not aware of any problems caused by the existing arrangements, but if my hon. friend has a particular point in mind I will be glad to consider it.

COMMUNICATIONS (INTERCEPTION)

Mr. Tugendhat asked the Prime Minister who is to be appointed to the interception of communications.

Mr. Blaker: With the agreement of the Home Secretary, I have appointed Mr. Right Hon. Lord Diplock, a Judge in Ordinary, and chair of the Security Commission, to carry out the work. As the Home Secretary has the final say on the terms of reference will be:

to examine on a continuing basis the present conditions and safeguards for interception of communications of the police, HM Customs and Excise, the Security Service, as set out in the terms of reference to the Prime Minister.

EUROPEAN AGRICULTURAL POLICY

Mr. Blaker asked the Prime Minister what contributions are the various countries of the common agricultural policy making; whether any EEC country has benefited from EEC membership; and whether the United Kingdom has benefited from EEC membership.

Mr. Blaker: It is not possible to say, in general, the overall economic gain for us or any other country. For instance, we have a long list of our goods which we have not sold in the past. The fact that economic benefits in the order of 250 million, which is a problem in international trade. The problem of membership of the common market shared by all

e/w
w/p

 Ministerie van Economische Zaken

Min. Ackx
sup Khan

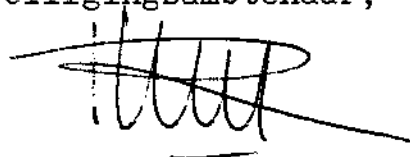
Aan : De leden van de Werkgroep Khan.

20.6.1980
BA
BA/929/80
2065/2071

./.
Hierbij doe ik U een copie toekomen van een schrijven van de voorzitter van de bijzondere commissie belast met het onderzoek in de zaak Khan.

Na terugkeer van vakantie van de heer Bos (op 30 juni a.s.) zal zo nodig overleg plaatsvinden over het verzoek van de bijzondere commissie tot partiële beantwoording van de gestelde vragen.

AFDELING BIJZONDERE AANGELEGENHEDEN
Beveiligingsambtenaar,



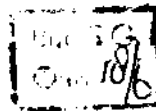
(R.C. Ackx)

Byzondere Zaken
Postadres
Telefoon



BA

007/060/80



18/6

's-Gravenhage, 17 juni 1980

→ *mevr. S.C.*

Aan de Minister van Economische Zaken

's-Gravenhage

vergezeld bij de heer Minister 18/6

B.A.
1780/5
20 JUN. 1980

De bijzondere commissie, belast met het onderzoek in de zaak Khan (16 082) heeft zich in een vergadering, gehouden op 10 juni, beraden op de inhoud van Uw brief van j.l. 2 juni inzake het tijdstip van de beantwoording van de door de commissie gestelde vragen. De commissie toont, zij het node, begrip voor de in Uw brief genoemde redenen, die het op korte termijn beantwoorden van de gestelde vragen verhinderen. Nochtans spreekt de commissie de hoop uit, dat de Regering blijft aandringen op de grote voortvarendheid in de uitvoering van het justitieel onderzoek, dat thans gaande is en, naar de commissie hoopt, op korte termijn kan worden afgesloten. De commissie verzoekt U alsnog te bevorderen, dat de gestelde vragen waarvan vaststaat dat zij de doeltreffendheid van het genoemde onderzoek niet in gevaar brengen, nog vóór het zomerreces der Kamer schriftelijk worden beantwoord.

Tenslotte deel ik U namens de commissie mee, dat zij voornemens is deze brief alsmede de door de commissie op 9 en 29 mei aan U gerichte brieven en de door U op 2 juni aan de commissie gezonden brief te doen drukken als verslag van een schriftelijk overleg.

De voorzitter van de commissie,

R. ter Beek.

05:5

BB programma 16.6.80 over URENCO

Transcript van bovengenoemd programma,
met passage over URENCO

De Minister van Economische Zaken
te
's-Gravenhage

n.a.v. Drs H.F.G. Geizers

XX

MIN. VAN BUITENLANDSE ZAKEN	
D.R. 170/41	VIBIS
INGEK.	23 JUN 1980
Fotona.	ASIS 170145
DOSSIER	170145

n.a.v. uw telefonisch verzoek aan deze
post.

W.C. ...

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London, 19 juni 1980.

Te: Ministerie van Buitenlandse Zaken, n.b.

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NOTE: THIS TRANSCRIPT WAS TYPED FROM A TELEDIPHONE RECORDING AND NOT COPIED FROM AN ORIGINAL SCRIPT. BECAUSE OF THE RISK OF MISHEARING AND THE DIFFICULTY, IN SOME CASES, OF IDENTIFYING INDIVIDUAL SPEAKERS, THE BBC CANNOT VOUCH FOR ITS ACCURACY.

P A N O R A M A

Recorded from transmission on BBC-1 at 2010 -- 16th June, 1980

PHILIP TIBENHAM: This convoy grinding across the empty Sahara is carrying what could be the raw material for the world's first nuclear war. The trucks are heading for a dusty desert air strip with a cargo of uranium yellow cake. It's been mined in the Islamic state of Niger. It'll be flown on to Islamic Libya; then on to Islamic Pakistan. Tonight, Panorama reports exclusively on payments of millions of pounds by Libya's Colonel Gaddafi to finance Pakistan's efforts to build the 'Islamic Bomb'.

(MUSIC)

PHILIP TIBENHAM: Here at Kahoota, just outside Islamabad, under conditions of rigid security, Pakistan's attempting to transform yellow cake into plain grey uranium. Known within military as project seven-o-six, it's defended by anti-aircraft missiles. Curious Europeans who've strayed too close have been brutally beaten by security police. Yet Pakistan is on the verge of building the bomb because she's been able to buy almost total access to Western technology. Project seven-o-six owes its existence to sophisticated companies scattered across Europe who've been happy to accept Pakistani money without asking too many questions. The buying of Western technology's been carried out by a network of resourceful Pakistani agents in Europe with the help of their European middlemen. Sometimes using deception, sometimes dangling hard cash, they've been able to get from private enterprise in the West most of the components they'll need to build a bomb. Project seven-o-six is closely modelled on a uranium enrichment plant at Almelo in Holland. Pakistan managed to penetrate the tight security here and obtain a list of over a hundred sub-contractors -- the basis of their buying campaign. There are some grim conclusions to be drawn from the story of project seven-o-six. It's brought the prospect of a nuclear exchange between unstable regimes considerably closer. Secondly, it's proved that any ruthless and determined government with the money and will can get the bomb by stealth. And thirdly, the West seriously over-estimated its own ability to stop the spread of nuclear weapons. Against all the evidence, Pakistan continues to deny it's building the bomb.

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GENERAL ZIA UL-HAQ: I have said it on top of my voice we're not in competition with any other country of the region in the nuclear technology. We are not making a bomb. We are sold to the idea of nuclear or stopping nuclear proliferation in the world. But where the dissension has arisen is I say that it is the right of any developing country to acquire the modern technology. And amongst the modern technology is the nuclear technology. Nuclear technology for peaceful purposes.

PHILIP TIBENHAM: That's not what's happening here at Pinstake (phon.), the Pakistan institute of technology, where scientists are determined to produce plutonium as the vital core of a nuclear weapon. We believe they'll be able to carry out their first test eighteen months from now. When it happens, it'll be largely thanks to the organisation of this man. Mr S.A. Butt has been the ingenious quarter-master for the Pakistani bomb project. Based in Paris, he spent colossal sums of money on components for the bomb. Reportedly Butt himself was in at the birth of the bomb at a meeting held by the late Ali Bhutto. Present were Professor Abdul Salam, later to win a Nobel Prize, Ishwat Usmani, Head of the Pakistan Atomic Energy Commission and Munir Khan who was to succeed him. The date:1972.

KHALID HASAN: It was rather, you know, like a jamboree, you know, it was very...there was a great deal of enthusiasm and joy and these were, you know, the early days you know, Bhutto had said that anything, he could have got away with anything. His authority was unquestioned. And loyalty to Bhutto was unquestioned. He was looked upon as the great Messiah. So he got all these boys together and they were senior people, very senior people, and junior people and youngsters, and he said "look, we're going to have a bomb, like we're going to have a party." He said:"Can you give it to me?" So, you know, they started shouting like schoolchildren. They said:"Oh yes, yes, yes, you can have it, you can have it". Bhutto was very amused and he said, well, much as I appreciate your enthusiasm, but these are serious matters. But in any case this is a very serious political decision which Pakistan must make; and perhaps all third world countries must make one day because it is coming. So, can you do it. They said we can do it given the resources and the facilities. So Bhutto said "I shall find you the resources and I shall find you the facilities."

TIBENHAM: Exactly three weeks later, Pakistani papers reported on Ali Bhutto's triumphant tour of the Middle East and North Africa — Sudan, Ethiopia and Libya. He had to find the money he'd promised his scientists.

KHALID HASAN: You know, I was on the trip and we visited about sixteen countries. Somalia, and Libya and Ethiopia. He didn't get it from Haile Selassie, I can assure you.

TIBENHAM: One of the most ecstatic welcomes of the tour was from Colonel Gaddafi of Libya. Outwardly he was very different from Bhutto, but the two men respected each other as brothers in Islam.

HASAN: Bhutto said -- one of the last things he said, you know, before his execution -- that "I want to be remembered as a revolutionary and as a poet. And I think Gaddafi is a revolutionary too.

TIBENHAM: But it wasn't only brotherly love that attracted Gaddafi to Bhutto. The Colonel had publicly and unashamedly declared his yearning for a nuclear weapon. With the enormous wealth from his oilfields he'd already tried to import nuclear expertise. People who would build him what he called the "sword of Islam". He told a Lebanese newspaper "People now say that this country has fifty planes and that country has five-hundred the day will come when they will say this country has three nuclear bombs and that country has ten -- Libya will not be absent when that day comes.

TIBENHAM: Farther, he'd made somewhat naive approaches to France and China to buy an off-the-shelf bomb and had been rejected. Later, he even tried to bribe India with massive supplies of cheap oil in exchange for a bomb and again he was turned down. Suddenly, here was Pakistan -- a potential bomb supplier -- with its palm outstretched waiting for Gaddafi to put money into it. Secret meetings began in Paris between Pakistani and Libyan representatives. So secret that only a handful of men knew about them. Among them Ali Bhutto himself and Munir Khan, Head of the Pakistan Atomic Energy Commission. The first meeting was in 1973. We've been given an account of those meetings by a Pakistani diplomat who was involved. Like other Pakistani informants in this film, he's been warned of a long prison sentence if he talks. His account of what happened is read.

VOICE OVER: There were various meetings in 1973 involving Libyan and Pakistani representatives. Most Pakistani diplomats in Paris were not told. Less than ten people knew of the meetings. The Libyans wanted the entire capability. Sums in excess of five-hundred-million dollars were discussed. There were also discussions with other countries, including Saudi Arabia and Gulf States. Their interests were different from Gaddafi's. They principally wanted Pakistan to possess the expertise. They weren't making the same demands as Gaddafi. During the negotiations the Pakistani side believed that a total investment -- if you like to call it that -- of several billion dollars was possible. But nothing like that amount ever arrived.

TIBENHAM: But massive sums of money did arrive in Pakistan. Another senior Pakistani, now in fear of a ten-year prison term, has told us exclusively that staggering consignments of money -- sometimes as much as a-hundred-million dollars in cash -- was specially flown from Libya to Pakistan. The flights began in 1975.

... A plane left Tripoli for Pakistan in December and another in the summer of 1976 carrying money from Colonel Gaddafi for Mr Bhutto for use in the manufacture of an atom bomb. And money was always carried in suitcases by trusted couriers in high denomination notes. Mr Bhutto told me that Colonel Gaddafi had several discussions with him on the subject at Lahore during the Islamic Summit and had promised all the financial help necessary to manufacture such a bomb, but also indicated that he would like to have the first one.

TIBENHAM: But what happened on this particular occasion, how was the money got to the plane.

... In suitcases, carried by a courier each time on a Boeing flight from Tripoli via Rome to Karachi under a very special security arrangements.

TIBENHAM: So one man carrying a-hundred-million in cash.

... Yes, at least a-hundred-million. There was a special arrangement at Rome airport for security and the impression given was that it was a VIP flight.

TIBENHAM: And there's no question that this was cash for the bomb.

... Oh there's no doubt about that.

TIBENHAM: So people with the money, the technology and training had always been available. In the early seventies when the Pakistan bomb project was born, the United States and Canada still firmly believed that it was their duty to bestow nuclear knowledge on the struggling Third World.

VOICE OVER: Who says scientists are serious. Certainly not Professor Kneelie (phon) who played the piano while a student sang.

TIBENHAM: In this relaxed international atmosphere Pakistan ordered Cando (phon.) reactor from Canada, partly because she genuinely needed nuclear power. But there was another reason: it was the first step towards the bomb. The easiest route to the bomb is to produce plutonium. To do that on a large scale you need a nuclear reactor like this. It'll turn you out lots of spent atomic fuel containing plutonium. To recover that plutonium you must have a reprocessing plant. That was to be Pakistan's next step.

... The reactor was our source for plutonium. Already we had begun negotiating to buy reprocessing equipment to extract plutonium from the spent fuel. And we had the design for a plant since 1958. The experimental work was to be done at Pinstack (phon.) -- the Pakistan Institute for Nuclear Science and Technology. Bhutto said a real team would be built up and one was assembled; money was never a problem.

INDIAN PROPAGANDA FILM: On the hundred-and-thirty-eighth day of the year at zero-two hours, thirty minutes, twenty seconds, Greenwich mean time, corresponding to eight hours, zero-eight minutes, twenty seconds in the morning Indian Standard Time, the graph went haywire. Three minutes earlier in the desert through the haze of dust and debris you can see the hillock rising.

TIBENHAM: In the spring of 1974 Pakistan's old enemy India pulled off a remarkable propaganda coup by detonating what was called "a peaceful plutonium device" she shook the West and Pakistan. India had acquired plutonium and beaten them to the punch. The shaken Pakistanis focused their attention on one of the most powerful industrialists in France. The head of SGN -- the biggest exporter of reprocessing plants in the world -- is Francois-Xavier Poincet. His company is sixty-six per cent controlled by the French government. He'd already been in negotiation with the Pakistanis over the supply of a nuclear reprocessing plant which recovers plutonium from spent fuel. Poincet fully accepted the Pakistani's pleadings that they needed the plant purely for a grandiose civil power programme. It's hard to accept, though, ^{that} the French government were totally unaware of Pakistan's long-term intentions. On July the twenty-eighth, 1975 the French embassy in Brussels wrote in confidence to the French Foreign Office that the President of the Pakistani Atomic Energy Commission had declared that whether the French deal went through or not, Pakistan planned to get a plant able to manufacture the small amount of plutonium necessary for an explosive device, using natural irradiated uranium produced by their Canadian reactor.

TIBENHAM: So, are you telling me that throughout this whole period it never crossed your mind that this plant could be put to anything other than peaceful purposes?

FRANCOIS POINCET: Obviously, I can't say that. I mean if you make... suppose you make a steel plant could you be certain that none of the steel would ever be used to make a gun. There's no relation. This plant was intending to reprocess irradiated fuel. Pakistan has a source of irradiated fuels. Since they have one reactor they are planning to have others. They have to reprocess this fuel. They make a reprocessing plant, that's quite normal. When you come and say, ah, may be they will make an atomic bomb. May be with a steel plant they will make a weapon, they may make a gun, make pistol, who can say.

TIBENHAM: This is the sort of reprocessing plant M. Poincet builds. What the Pakistanis wanted was a scaled-down version of the same thing. If their plans for an expanding civil programme had been genuine they would, indeed, have needed a plant like this. But they hadn't placed a single order in that programme. So they had no need for such a large plant. Some Americans, unlike the French, were beginning to realise what a difference the plant could make.

JOSEPH NYE: That's the difference between having a quite large arsenal of weapons usable material quite quickly as opposed to having to make it out in small quantities at a time.

TIBENHAM: When you say ^a large arsenal, what do you have in mind?

NYE: Well, I would imagine the materials ^{that} could have been diverted from the plant or would be available if safeguards were broken would be somewhere fifteen or twenty bombs worth right away as opposed to a much smaller amount that would have to be done through clandestine plants or by other means.

TIBENHAM: And an ability to add to those fifteen quite regularly.

NYE: Yes, quite regularly.

TIBENHAM: Bhutto was in Canada when the French made up their minds to go ahead and supply the plant. Everything now rested on a rubber stamp from the International Atomic Energy Agency in Vienna. The agency was to inspect the plant and monitor the amounts of nuclear material produced. Bhutto was actually inside the Canadian parliament building when a cable arrived granting international approval.

KHALID HASAN: And you know his face lit up and he relaxed. He was very very pleased. And, you know, later in the afternoon there was a press conference and he said "look why are you asking me questions about the reprocessing plant. The IAEA has cleared it. So what are your misgivings"

TIBENHAM: From its headquarters in Vienna, the IAEA is supposed to act as the world's nuclear guardian and ombudsman. From the millions of words that pour in here every day an army of civil servants is in theory able to spot nuclear misbehaviour and put a stop to it. Complicated safeguards were, indeed, built into the Pakistani agreement. But what use are safeguards if a nation intends on building a bomb?

SIGVARD EKLUND: I can't recall at the time when this matter was approved by the board that they had declared their intention to go ahead with a nuclear weapon programme. That I don't recall.

TIBENHAM: Pakistan undertook that no reprocessing plant nor any material produced shall be used for the manufacture of any nuclear weapon or to further any ^{other} military purpose or for the manufacture of any other nuclear explosive device. But let's be frank everybody knew what the plant was for, didn't they?

KHALID HASAN: Well, I suppose, I can all the Western countries knew.

TIBENHAM: Bhutto went home in glory. The plant which the French were to build had two alluring attractions. One, the means to fuel a new generation of reactors to ease Pakistan's power starvation if he wanted. But two, once in operation it would guarantee a tremendous lead in any arms race with India. But the Americans had already decided to stop Bhutto in his triumphant tracks. Dr Henry Kissinger was given the job. Bhutto claimed that Kissinger told him "if you go ahead with this plan, we will make a horrible example of you". Bhutto took this to mean that his downfall would be engineered by America. Pressure from the Carter administration finally persuaded the French to suspend the reprocessing deal. In Washington there was self-congratulation on a tactical victory — an end to the Pakistani bomb. But they were wrong. The first-ever nuclear bomb was made from uranium, not plutonium. What the Americans didn't know was that the Pakistanis far from being halted in their plans had quietly embarked on a second route to the bomb — to build a weapon exactly like the one dropped on Hiroshima. A bomb made with enriched uranium. And in this they were to be proved almost unstoppable.

TIBENHAM: In the summer of 1972 a pleasant young Pakistani scientist and his British-born wife moved into this quiet suburb, not far from Amsterdam airport. Abdul Khadir Khan and his wife Hanny quickly settled into the neat community of young married couples. The lace on the door and the tended potted plants in the window of Number Seventy-One, Amsdel made them seem models of suburban respectability. Khan didn't talk much about Pakistan and everyone understood he intended to live in Holland for good. He occasionally mentioned that he'd been educated at a couple of Europe's better universities. Apart from that people remember only ^{that} the Khans were so downright nice.

DR GEORGE VANDER PERRE: For instance he was offering cookies and sweeties to the secretaries because in his idea a girl should be a little bit fatty let's say. That was one of his

TIBENHAM: Or that attractive women needed to be fat.

PERRE: Yes, yes something like that.

TIBENHAM: In fact Khan was a perfect family man, faithful to his wife and devoted to his daughters. His life was going to work and looking after the family. ^{But} occasionally he took trips to his old universities and it was after one of these that he came home with good news — he'd landed an intriguing new job. It was worth, it was to fling him into a world he'd never known before. The world of the industrial spy. Khan's new employers just happened to be the major sub-contractors to Urencia — the Dutch-British-German consortium which runs a massive uranium enrichment plant at Almelo in Holland. Here, uranium gas is rotated at incredible speeds to produce enriched uranium. This is the sort of equipment the Pakistanis would need for the second route to the bomb; a bomb using highly enriched uranium. While he was working in Holland, Khan was approached by Pakistani agents who realised his knowledge of specialised metals could be invaluable in this alternative bomb programme. Khan was a willing recruit and he could tell them exactly what they needed to buy. To his neighbours Khan seemed his normal likeable self. They did notice that now and then large cars with 'CD' plates would arrive from France and Belgium and often not leave until the early hours. But they took little or no notice of it. Suddenly, on December the fifteenth, 1975 Khan, his wife and two little girls disappeared. He'd been recalled to Islamabad — his mission in Europe had been accomplished. Back home, Khan was whisked into rather more splendid accommodation — a government villa on the outskirts of Islamabad; with the ultimate luxury — a private swimming pool. He was even given his own guards. When one European tried to approach the house he was given a severe beating.

DR GEORGE VAN DER PERRE: It was unbelievable. It didn't fit into the image we have of Khan here.

TIRENHAM: Khan's new job was to take charge of the Pakistan enrichment programme. The centrifuge system is being constructed under the strictest security just outside Islamabad. The components being used here at Kahuto were all bought in Europe; results of deals in which Khan was involved before he left. The purchases arranged by a network of Pakistanis in Brussels, and Paris had all skillfully sidestepped the West's nuclear export regulations. The Pakistanis are so concerned about Kahuto that they've installed French Krotile anti-aircraft missiles to protect the installations. The Indian border is only five minutes flying time away and the Pakistanis have no intention of being surprised by a sudden strike by India's well-trained air force. Western intelligence sources sketch the interior of Kahuto like this: at the heart is the centrifuge system itself, surrounded by laboratories and ancillary buildings that house the control equipment, gas feed system and power supply; a guard block, power generating station and a battery of anti-aircraft guns to protect the site; inside the cascade hall several thousand centrifuges which once working could produce enough enriched uranium for six weapons a year. The enrichment process is so complex and costly that it created the perfect cover for the Pakistanis intentions. Almost no scientist or government official in the West believed that they would undertake such a challenging method. In fact almost every piece of equipment inside Kahuto has come from Europe, including Britain. One of the first purchases — the Pakistani centrifuge — was a batch of inverters from the Swindon plant of Emerson Electric. Inverters ensure that the current arriving at the centrifuge remains absolutely constant; that's essential when the motors have to run at tens of thousands of revolutions a minute. The management of Emersons, both here in Swindon and of their parent company in the United States, refuse point-blank to talk about the inverters. But a scientist who used to work here has told us that anybody who is anybody in the company had a pretty shrewd idea of what they were for. But they weren't bothered. They were convinced the Pakistanis wouldn't know what to do with them. Indeed, he says, there was a company joke that the inverters would rust away in their cases up in the hills and then the Pakistanis would order some more. In fact, only a couple of weeks or so after the inverters arrived in Pakistan a telex came here asking for a whole list of very sophisticated modifications and that took the wind out of the management's sails. It was another example of Western arrogance assu ing the Pakistanis had no idea what they were up to. The Pakistanis in fact knew exactly where to go to place their order for inverters without causing too much suspicion -- to the prosperous little town of Leonberg, not far from Stuttgart. One of their go-between companies is Team Industries. The Pakistanis wanted thirty-one inverters and they were prepared to pay above the going rate for them. Their middleman was one of the company directors, a Mr Pfel (phon.). Mr Pfel hoped there'd be more orders like this. On this one alone his commission ran into thousands of pounds.

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TIBENHAM: I'm asking you matters of purely public interest about your dealings with Emersons and the Pakistanis. Is it true you placed an order in 1976.

PFEL: I am on Friday in England with Mrs Thatcher together.

TIBENHAM: A later order for more centrifuges from Emersons worth over a million pounds was frozen by the British Government. Even so, Pakistan already had enough converters to run several thousand centrifuges. In 1976 three Pakistani buyers came here to Switzerland. This time they were frank about what they wanted: valves for uranium enrichment plant. VAT, a highly specialised firm which supplies nuclear facilities all over the world, were only too happy to oblige. To cover themselves, they wrote to the appropriate government official asking whether an export licence was required. The government wrote back listing sensitive items based on guidelines laid down by the so-called London Club of Nuclear Supplier Nations. The Pakistani order didn't clash with the list and the Swiss government, anxious for firms to enter the lucrative nuclear export market, didn't ask further questions. The Pakistanis were so impressed with this aggressive selling attitude that they upped their requirements. They went to Kora Engineering, tucked away in the Alps with an astounding request: could Kora, they asked, design and build a system to feed gas to the centrifuges. The answer was a very rapid 'yes'. This is no small vague component, but a vital stage in the enrichment process to be custom-made in Europe. It was one of the biggest and most blatant orders placed anywhere by the Pakistanis. So how did Kora imagine ^{the} enriched uranium they were helping to produce would be used?

RUDOLF WALT: What can lead to a nuclear weapon, that is the question, of course. Nuts and bolts can lead to a nuclear weapon. Where do you draw the line?

TIBENHAM: The complete plant was so large that three chartered Hercules planes were needed to fly it from Switzerland to Pakistan.

TIBENHAM: Let's suppose you were absolutely satisfied that they were going to use this plant to make a nuclear weapon. Would that have changed your mind one bit about supplying it?

RUDOLF WALT: First of all we have no knowledge in nuclear weapons design or construction or anything; we wouldn't even know how to build one, how to design one. That is ^{for} one thing and we would certainly not actively support anyone to build a nuclear weapon. Right?

PHILIP TIBENHAM: But you have, haven't you?

RUDOLF WALPI: No. How could we.

TIBENHAM: But you're coming back to your point that you don't really know or wish to know what the end product is going to be is for one. Your attitude is surely: don't ask too many questions.

WALPI: No. How should we know, really, what they intend to do with it; what they want to do with it.

TIBENHAM: You're saying you have no idea at all.

WALPI: No.

TIBENHAM: This ability not to know makes life easier for Mr Butt in his role as chief buyer. He's still attached to the embassy in Paris and still placing orders. One of his recent ones was a small quantities of uranium-235 and plutonium. They were, he said, to be used by Pakistani students. So Mr Butt had acquired the machinery and his bosses had the expertise. But they were no use without the raw material. He came to this office in Duesseldorf in search of, among other things, uranium yellow cake.

ALFRED REMPEL: He was a member of the Pakistan embassy and he is authorised to negotiate with that material and he is buying that material for the Pakistan Atomic Energy Commission.

TIBENHAM: When he telephoned to press the order was he more interested in the hexofluoride or the yellow cake, did he say what he wanted?

REMPEL: Also...exactly he did not say it, but I believe he was more interested in yellow cake.

TIBENHAM: In the end, Mr Butt and the Pakistanis found a very different supplier for their yellow cake. The source of limitless uranium for Pakistan is appropriately the Islamic Republic of Niger. Deep below the Sahara there is more uranium than the Pakistanis will ever need to build their bomb. The company mining the uranium is French and is headed by M. Jack Giscard d'Estaing, cousin of the French President. The site's stranded in the middle of the blistering desert, hundreds of miles from the nearest town. In temperatures which often touch a hundred-and-twenty, thousands of local labourers, supervised by French engineers, continually inhale hot dust as they extract the uranium. The billions of tons already extracted have left a monstrous crater in the desert.

PHILIP TIBENHAM: The ore is processed on the spot under strict French control into yellow cake. The Islamic Republic of Niger takes its share of the mine's output. Almost all of that is sold to her Islamic brother states, Libya and Pakistan. Some of Pakistan's uranium goes via France; the rest is flown out through Libya. The uranium convoy travels a-hundred-and-fifty baking miles to a barren desert air strip at Agadez. From there it's flown northwards across the vast Sahara to Tripoli, in Libya. The last leg of the uranium trail from Tripoli, three-thousand-odd miles to Karachi, in Pakistan. Now neither Niger nor Pakistan has signed the non-proliferation treaty — the NPT, an agreement which is supposed to stop the spread of nuclear weapons. But once again, Pakistan agreed to safeguards over the use of its uranium and once again the words had a familiar ring. Pakistan undertook that no uranium shall be used for the manufacture of any nuclear weapon or to further any other military purpose or for the manufacture of any other nuclear explosive device. The President of Niger is Seyni Kountche. Under his firm leadership the country has gone from being one of France's poorest former colonies to being wealthy — all because of uranium sales. But he's only there by the grace of France. And more important Colonel Gaddafi supported the coup which brought Kountche to power. Gaddafi knows that as with oil, uranium means power and he'd like to become the uranium broker to the world of Islam. Kountche is the man who could help him to do it and thereby reinforce Libya's role in the Pakistani bomb. The uranium trade between Niger and Pakistan is partly the result of Libyan diplomacy. Kountche, like Gaddafi, is deeply committed to Islam. It's no coincidence that almost all of Niger's uranium goes to Libya and Pakistan.

COL. SEYNI KOUNTCHE: We sell our uranium to any country on condition that it participates in our development. Secondly, we expect our uranium to serve the interests of development not of war. And we require that the International Atomic Agency guarantees the sale. Therefore, we don't see why our selling to one particular country should create a complaint. We are selling and will continue to sell to Pakistan. If the IAEA doesn't carry out proper supervision then that's a matter for its own conscience.

TIBENHAM: The civil servants at the IAEA say they know what's happening to the uranium in Pakistan.

SIGVARD EKLUND: For the time being the uranium ore is only stored in drums; it has not been moved away.

TIBENHAM: But how d'you know that, how often do your inspectors go there?

SIGVARD EKLUND: We have...that has been inspected by us.
And we know that.

TIBENHAM: But how often do you go there, once a
year, twice a year.

EKLUND: That again represents a confidential
figure. Different installations are visited with different
frequency in order to assure that we have a reasonable
probability of discovering any diversion of the material.

TIBENHAM: But if that were the case you'd have
to be able to account for every pound exported from Niger to
Pakistan and make sure it was still there and not being
used for some improper purpose.

EKLUND: May I say we should at least be secure;
a pound of uranium doesn't represent a danger to mankind.

TIBENHAM: Eklund's argument would be unassailable
except that large quantities of uranium now sold to Libya which
then ships part of it off to Pakistan. Since Libya hasn't allowed
the IAEA inspectors to check how much is left, the agency cannot
know how much uranium Pakistan has acquired or what's been done
with it. Each of these trucks is carrying about fifty or more
drums of uranium on its way to Libya and Pakistan. According to
Niger, it's sold a-hundred-and-fifty tons of concentrate
to Libya and three-hundred-tons to Pakistan. Our informant
says that Libya's sent large amounts of uranium to Pakistan.
Gaddafi's done this, he says, to help to protect his role in
the bomb project to get a return on his investment.

... The Libyans had always been doubtful
about the quid pro quo. Pakistani scientists are training Libyans
in laboratory hotcell operations. There is other training going on
too, but the Libyans have made it plain they want what they believe
they were promised: full access to the technology.

TIBENHAM: Gaddafi has another ^{good} reason for backing the
Pakistani bomb: Israel. The Israelis have made it abundantly clear
that if some close Arab country, like Libya or Iraq, comes near to
getting the bomb, they would use their air power to remove the
threat from their sphere of influence and there's no doubt that they
could and would do it. ^{But} Pakistan's a different matter.

EDWARD LUTTWAK: I don't think it'll get to the point where
Iraq will be within an ace of having a nuclear weapon because the
Israelis will stop it. Whether this means going out to third
countries and interfering with the shipment of nuclear equipment or
it means going right inside Iraq and bombing the facilities — they
will do it. As you know recently the Israelis have achieved a
dramatic increase in the range of their air power because they're
able to reach right into the Persian Gulf.

EDWARD LUTTWAK: And they have this special ordinance bombs that penetrate byenergy.....so they have the full equipment to do it and they will do it. If it came to the crunch and they knew that Pakistani weapons have been transferred to Libya or sitting in the ship half way, they would go for the ship, obviously. If these were in a dock in Karachi waiting to go, they might go as far as there. But the further it is in Pakistan, when it is a Pakistani thing as opposed to being a Libyan-Pakistan thing, less likely they are to act because they don't feel that it is within their legitimate sphere to go that far.

PHILIP TIBENHAM: So a bomb built in the comparative security of Pakistan is still Gaddafi's best bet.

TIBENHAM: A small town of San Angelo de Gigiano, in northern Italy: it's a deeply conservative and Catholic place, but it's here that the story of the Islamic bomb's taken its most extraordinary turn. On the outskirts of town there's a medium sized engineering works. It's owned by a French company and here, we believe, the Pakistanis are trying to resurrect their original plutonium route to the bomb. Our information is that Pakistan's covertly pressing ahead with the complex reprocessing plant that the Americans thought they'd stopped. The company's called Alcom and it just started work on twenty-six presses and tanks made from special metals to be delivered to Pakistan by next December. The order may not have seemed important, but the contract for the work was signed in April of last year. The date is significant because the very next month a confidential letter went out from Cogema, the French nuclear fuels company, to SFR, the company controlled by the French government. Persistent rumours are circulating on the Pakistan affair. Some industrialists are alleged to have directly or indirectly transferred or sold sensitive and non-sensitive material to Italian industrialists. These firms are alleged to have sent the material on to Pakistan. The boss of Alcom is Signor Aldo Torchi.

ALDO TORCHI: What is your interest in this matter. Your personal interest?

TIBENHAM: My personal interest. I'm trying to find out what sort of things Pakistan is importing and why they are importing them.

TORCHI: But I cannot give you any answer about this We have supplied a lot of material to Pakistan. We will supply lot of materials more to Pakistan and it is all right.

TIBENHAM: Yes, I know you supply lots of things to Pakistan, but in particular, I'm interested in this order from — what's the name of the company where this order came from last year.

TORCHI: I am sorry, but I cannot give you the information you require. I am sorry.

TIBENHAM: But you told us earlier the name of the company.

TORCHI: No. No. Excuse me sir. The job is a serious matter.

TIBENHAM: What do you think these particular vessels or pull linings are for.

TORCHI: Pull.....

TIBENHAM: The things you're going to supply
?.....

TORCHI: Excuse me. No.

TIBENHAM: The reason for Signor Torchi's outburst is now clear. He'd been told by his French superiors that he was to allow no filming and to make no comment. The parent company in Paris is called BSL. They were contractors in the original reprocessing plant. The management will neither confirm nor deny that they or their subsidiary is involved in the Pakistan order. One of their officials has told us off the record that all they're doing is making a perfectly innocent chemical plant. The reason they say that is that precisely what the Pakistanis have told them. But if the Pakistanis are, as we believe, trying to rise to something as complex as a reprocessing plant how would they know how to set about it? The reason is simple. Virtually all of the blue prints for the plant have already been handed over to them by the French government-controlled SGN company. But if they have the plans, as they have, is there anything that you can see that would stop them going ahead alone, using what means they had at their disposal?

POINCEP: I think that if you take any country that's industrially developed enough, which is the case of Pakistan. If the government decides to put its pressure to push one definite project nothing can resist; a government can do anything.

TIBENHAM: The signals are that Pakistan's already made some preparations for a bomb test. Soviet and American satellites have picked up indications of tunnelling possibly for an underground trial. The site's thought to be in the remote desert area of Chulistan. If so, there's a dreadful irony about the choice of testing ground. It's just across the border from where the Indians exploded their crude bomb. But that doesn't mean that Pakistan is aiming at the same thing.

DR DONALD GEESMAN: It's just a question of how sophisticated a weapon they want to design. And they're asking the question that you've got a bunch of dummies that're going to work on it. There's no reason to think there are going to be dummies working on it. They might be just as good or betterassess the work done at Los Alamo. There might be some guy in there that really understands how you put the temper on there and where you put the initiator. And this will get just a feeling, not hard work. It's right off the bat, they'll say, Oh yes..... hold her for about a micro-second, I think, we'll get about such and such, I mean.....Don't assume that dummies are going to work on it. If they're motivated, they may do a hell of a job of making weapons.


PHILIP TIBENHAM: We believe that in eighteen months scientists at Tinstack, the Pakistan Institute of Technology, will produce enough plutonium for their first test bomb -- the bomb the West was convinced they could never make.

EDWARD LUTTWAK: You could see it when the Chinese set off their first nuclear weapon. In this country they said how can those dummies have set off a highly rich uranium weapon. They could never have figured out how to make a defusion point. Well then, you too flew over and took a picture and it's clear in cans or province they got their enrichment point. I mean it's convenient.....(music)

TIBENHAM: Whether or not Zia survives as Pakistan's leader, he's placed an impossible burden on the country. Once the bomb is known to exist, he or whoever succeeds him, will face enormous problems. Instead of creating security, the weapon will do quite the opposite. Libya will demand a return for all her help in the form of nuclear expertise. If the bomb is there, the military will want to test it. With mistrustful India on her doorstep that could be a disastrous move.

... Detonating the device would give one warning that ex-months, years down the road they will have a real weapon. They have a weapon or the device. And during that intervening period the pressure on India to act to disarm the Pakistanis will be enormous. The conflict between the two countries is potentially a fatal conflict. It's about the existence of Pakistan, not about any dispute or border problem and there's always the possibility that the Indians will not allow the Pakistanis to make a transition from crude device to the weapon and that means war.

TIBENHAM: When the dream of the Islamic Bomb was born Ali Bhutto promised "we shall have the bomb even if we have to eat grass to get it". Pakistan may find there's no grass to eat.


Ministerie van Economische Zaken

De Heer Voorzitter van de Bijzondere
Commissie uit de Tweede Kamer belast
met de behandeling van Kamerstuk 16082,
Binnenhof 1 a,
Den Haag.

26 juni 1980.

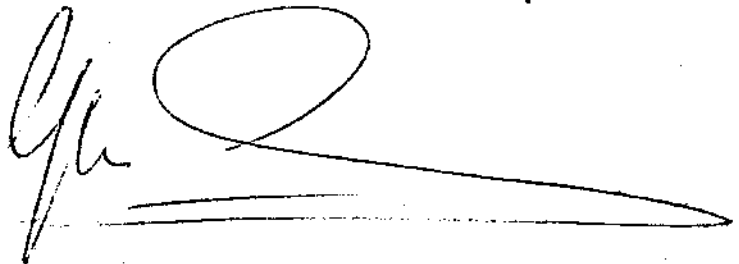
E

zaak Kahn.

In antwoord op Uw brief van 17 juni jl. moge ik U,
mede namens mijn ambtgenoot van Justitie, het volgende mededelen.

De Commissie kan ervan verzekerd zijn dat het Justitieel
onderzoek met voortvarendheid wordt uitgevoerd. Het is evenwel
niet mogelijk gebleken nog voor het zomerreces vast te stellen
welke der gestelde vragen beantwoord zouden kunnen worden zonder
afbreuk te doen aan het Justitieel onderzoek.

DE MINISTER VAN ECONOMISCHE ZAKEN,



ravenhage,
t./Hfd. Afd.
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MEMORANDUM

Van : Maas Geesteranus

Datum : 16 september 1980 no. 76/80

Aan : DIO/PI

Visie JURA

Onderwerp : "Zaak Khan", extraterritoriale werking van Ned. strafwet
in nucleaire zakencc. DIO/OV
DRW/AT

Referte Uw memo-38/80 van 22 augustus jl.

- 1) Art. 302 van de Amerikaanse 1978 Nuclear Non-Proliferation Act bepaalt (door amendering van de 1954 Atomic Energy Act):

"It shall be unlawful for any person to directly or indirectly engage in the production of any special nuclear material outside of the United States (behoudens toestemming van de Amerikaanse overheid)".

Uit de 1978 Act blijkt niet wie onder "any person" zijn te verstaan (alleen Amerikaanse staatsburgers of iedereen? Er zijn meer varianten denkbaar!), noch welke sanctie staat op overtreding van de hier gestelde norm. Mogelijk volgt het een en ander uit de 1954 Act en/of de beginselen van de Amerikaanse strafwetgeving, doch eenvoudiger ware dit in Washington te doen navragen. Het antwoord lijkt mij van (politiek) belang voor het voortgezette overleg met de Tweede Kamer.

- 2) Intussen, de vraag naar de preciese territoriale omvang van de werking van dit Amerikaanse voorschrift is niet van doorslaggevend (juridisch) belang voor de door de bijzondere commissie uit de Tweede Kamer aan de orde gestelde vraag of het niet wenselijk is een soortgelijke bepaling in de Nederlandse wetgeving op te nemen. Bij "soortgelijk" moet dan kennelijk worden gedacht aan voorkoming (zo veel mogelijk) van herhaling van gevallen als die van Khan en Barendrecht, beiden mensen die hun in Nederland opgedane nucleaire kennis en bedrevenheid thans in het buitenland toepassen. In de overweging van de door de bijzondere commissie aan de orde gestelde vraag zal de Nederlandse wetgever hoe dan ook moeten uitgaan van wat mogelijk is in het kader van de Nederlandse (straf-)wetgeving en van de Nederlandse opvatting van het volkenrecht (een opvatting die niet noodzakelijk precies dezelfde is als de Amerikaanse, met name niet op het stuk van de extraterritoriale werking van de nationale wet).
- 3) Uit het bij Uw memo in kopie overgelegde rapport in de zaak Khan (Bijl. Hand. II 1979/80 - 16 082, blz. 31) begrijp ik, dat het niet gaat om uitbreiding van de bestaande verbodsbepalingen inzake schending van geheimen.

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- 4) Waartegen dient de (soortgelijke) Nederlandse norm zich dan wel te richten: tegen het zich (zonder toestemming van de Nederlandse overheid) bezighouden, direct of indirect, met de productie van speciaal nucleair materiaal buiten Nederland?
- (a) De kring van personen die kunnen worden geacht zich "direct of indirect bezig te houden met" een productieproces, is erg vaag en erg wijd getrokken. Daarin zou, meen ik, ook de loopjongen vallen die stukken rondbrengt binnen het bedrijf, onderscheidenlijk de persoon die werkzaam is in een toeleveringsbedrijf dat de nodige, op zichzelf wellicht volmaakt "onschuldige" materialen levert. In het navolgende wordt er vanuit gegaan dat een engere en scherpere omschrijving is beoogd, alleen betrekking hebbende op hoogwaardige arbeid met "gevoelige" technologieën.
- (b) Merkwaardig is, dat de norm zich alléén richt tot handelingen buiten Nederland. (Alleen, of althans primair; denkbaar is immers ook dat sommige gedragingen zoals adviesverlening aan een buitenlands bedrijf plaatsvinden in Nederland.) Merkwaardig is dit vooral als men het spiegelt aan het feit dat in de meeste zo niet alle rechtsstelsels ter wereld juist het territoriale karakter van de nationale strafwet voorop staat.

Wat dit laatste - het uitsluitend of primair exterritoriale karakter van de voorgestelde norm - betreft, kent de Nederlandse wetgeving naar ik meen slechts twee vergelijkbare normen: inzake kaapvaart en inzake vreemde krijgs- of staatsdienst, beide gedragingen die zich naar hun aard vooral buiten Nederlands grondgebied zullen kunnen voordoen. Overigens richten deze twee normen zich alleen tot Nederlanders. (W.v.S. artt. 388 en 389: kaapvaart; W.v.S. art. 101 en W. Oorlogsstrafrecht art. 4: vreemde krijgsdienst; W. Nederlanderschap art. 7 sub 4: vreemde krijgs- of staatsdienst. In dit laatste geval weliswaar geen strafsancie maar het rechtsgevolg, verlies van Nederlanderschap, kan toch als sancie worden aangemerkt.)

N.B. Is ir. Barendrecht ("zonder Ons verlof") in Braziliaanse staatsdienst getreden?

- 5) De vraag of het mogelijk is, een norm zoals voorgesteld op te nemen in de Nederlandse wet, zal worden gezien vanuit drie invalshoeken: ons nationale rechtstelsel (vide sub 6-8), het volkenrecht (sub 9-11) en bijzondere verdragsbepalingen (sub 14-17).

- / algemene

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- 6) De rechtsstaat-opvatting vergt van de Nederlandse strafwetgever dat hij de inbreuk op een norm niet strafbaar stelt als de burger de norm niet kan kennen. Vergelijk het "nullum delictum sine praevia lege"-beginsel. Nu hebben wij hier, in de voorgestelde norm betreffende nucleaire arbeid, kennelijk te maken met een "wetsdelict", niet met een "rechtsdelict" in de zin van een gedraging die algemeen als onrechtmatig wordt beschouwd in de wetgeving van Staten met een redelijk ontwikkeld rechtsstelsel.

(Voor het onderscheid wetsdelict/rechtsdelict in het internationale strafrecht sluit ik aan bij: Mrs. Mok en Duk, praeadvies N.J.V. 1980, i.h.b. blz. 67; en Prof. Jessurun d'Oliveira in NJB 7 juni 1980 blz. 531 e.v., i.h.b. par. 8.)

- 7) In deze opvatting zal Nederland niet als onrechtmatig kwalificeren de gedraging van "een ieder" (Nederlander of buitenlander) wanneer tussen de dader en de Nederlandse samenleving niet een zodanige band bestaat dat de dader kan worden geacht bekend te zijn met de in de Nederlandse wetgeving ter zake gestelde norm.

Aan dit vereiste zou kunnen worden voldaan als de norm wordt beperkt tot (nader te kwalificeren) nucleaire arbeid in Nederland (met inbegrip van zodanige arbeid t.b.v. iemand in het buitenland), of in het buitenland door iemand (Nederlander of vreemdeling) die zijn kundigheid heeft ontwikkeld tijdens werk op overeenkomstig (nucleair) terrein in Nederland.

- 8) In afwijking van het sub 6 gestelde is denkbaar dat de delictomschrijving zodanig wordt beperkt, b.v. tot het opzettelijk meewerken aan de vervaardiging van de atoombom, dat gesteld zou kunnen worden dat betrokkene zich onsolidair, zelfs vijandig, opstelt ten opzichte van de Nederlandse samenleving. Voor dat geval zou, misschien, een verbodsbeperking te verdedigen zijn gericht tot Nederlanders (ook in het buitenland). De vraag rijst dan wel: alleen vervaardiging van de atoombom of ook van andere "inhumane" wapens (b.v. bacteriologische). Voorts zou een uitzondering moeten worden overwogen ten aanzien van vervaardiging van atoomwapens in de nuclear weapon States waarmee Nederland militair is verbonden.
- 9) Het volkenrecht biedt geen gesloten rechtssysteem. Integendeel, het laat in vele gevallen, en met name ook wat betreft het van toepassing verklaren van voorschriften op, alsmede de rechterlijke beoordeling van, gedragingen buiten het

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Datum : 16 september 1980

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eigen territoir, aan de Staten een ruime marge, die in belangrijke mate slechts is afgepaald door regels van volkenrecht die aangeven hoever de Staat niet mag gaan. Het gaat dus om de vraag of een regel van volkenrecht bestaat die exterritoriale werking van de voorgestelde norm onrechtmatig doet zijn.

De Regering heeft, onder verwijzing naar het bekende "Lotus"-arrest van het Permanente Hof van Internationale Justitie (1927), deze opvatting verdedigd in 1973 in de Nota n.a.v. het Eindverslag der Tweede Kamer inzake de Europese Overeenkomst ter voorkoming van de radio-omroep- of televisie-uitzendingen door stations buiten nationaal gebied. (Bijl. Hand. II 1972/73-11 373, nr. 9, blz. 6.) Eraan toevoegende dat zich, naar algemeen volkenrecht, een onrechtmatigheid met name zou kunnen voordoen ingeval de Nederlandse wetgeving er op zou zijn gericht - of misschien ook als zij zonder die gerichtheid toch het effect zou hebben - bepaalde beginselen van de Nederlandse rechtsorde op te leggen aan de samenleving in andere Staten alwaar die beginselen vreemd zijn aan de daar bestaande rechtsorde.

- 10) In deze opvatting zal Nederland niet als onrechtmatig aanmerken gedragingen (van wie dan ook) in den vreemde die zijn gericht op de ontwikkeling of toepassing van kernenergie (vreedzaam of niet), aangenomen althans dat dergelijke gedragingen in de andere Staat zijn geoorloofd.

Hierop kan nochtans een uitzondering worden gemaakt in zoverre als de gedragingen levensbelangen van Nederland en met Nederland verbonden Staten bedreigen. Voor dat geval, dat naar het voorkomt zal moeten liggen op het terrein van de niet-vreedzame toepassing, zou een verbod zich tot Nederlanders in het buitenland kunnen richten.

- 11) Binnen de sub 10 aangeduide grenzen zou Nederland - in afwijking van het gestelde sub 7 - geen straf behoren te bedreigen tegen het verrichten van nucleaire arbeid in andere Staten (waar die arbeid naar plaatselijk recht wordt toegestaan), tenzij het verbod zich beperkt tot Nederlanders die zich door het verrichten van bedoelde arbeid Nederland-vijandig opstellen.
- 12) Wij zouden iets verder kunnen gaan dan de sub 11 getrokken grens indien aan de betrokken persoon, Nederlander of vreemdeling, die zijn kundigheid op nucleair terrein in Nederland wil ontwikkelen, uitdrukkelijk wordt voorgehouden dat hij zich door aanvaarding van een bepaalde (nucleaire) werkkring

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onderwerpt aan zekere beperkingen t.a.v. zijn verdere loopbaan. Dit valt te vergelijken met de geheimhoudingsverklaring welke ambtenaren bij indiensttreding afleggen; of ook met een voorschrift zoals dat in art. 4 (3) van het Statuut van het Hof van Justitie van de EGKS (Trb. 1951, 82, blz. 51):

"Zij (sc. de rechters en, ingevolge art. 13, de advocaten-generaal) mogen, noch direct noch indirect, enig belang verwerven of behouden in ondernemingen, kolen en staal betreffende, tijdens de uitoefening van hun ambt en gedurende een tijdvak van drie jaren na het einde daarvan."

Een vergelijkbare bepaling is vervat in art. 10 (2) van het EG-Fusieverdrag (Trb. 1965, 130) t.a.v. leden van de Europese Commissie, met als mogelijke sanctie het verval van pensioenrechten.

- 13) Met het gestelde sub 12 komen we in de buurt van een meer civielrechtelijke benadering van Uw probleem: vergelijk het contractuele concurrentiebeding (BW art. 1637 x).
- 14) Een norm die, binnen de in het voorgaande getrokken grenzen, zou verbieden dat iemand zijn in Nederland ontwikkelde, gekwalificeerde nucleaire kundigheid - behoudens toestemming - in dienst stelt van het buitenland, stelt een beperking aan de persoonlijke vrijheid van betrokkenen om een eigen werkkring te zoeken. Zij kan dan ook worden gezien als een inbreuk op hun privé-leven. Gelet op art. 8 (2) van het Europese mensenrechten-verdrag (Trb. 1951, 154) lijkt mij zo'n beperking evenwel toelaatbaar in het belang van de openbare orde.
- 15) Wat de Europese Gemeenschappen betreft, zal de norm dienen te worden getoetst zowel aan de bepalingen inzake het vrije verkeer van werknemers als aan die inzake de vrijheid van bedrijfs- en beroepsuitoefening. Het is immers een koud kunstje voor de betrokken, hoog gekwalificeerde deskundige om zijn bijzondere kunde te gelde te maken in een andere... vorm dan die van loondienst.
- 16) EEG (art. 7) en Euratom (artt. 96 en 97) verbieden in het algemeen elke discriminatie op grond van nationaliteit. Het EEG-verdrag werkt dit voor het personen- en dienstenverkeer nader uit in de artt. 48 - 66. Discriminatie zou zich slechts voordoen voor zover de voorgestelde norm zich alléén tot

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Nederlanders richt (supra sub 8 en 11).

Wij hebben dan wel te doen met "omgekeerde" discriminatie. De geciteerde bepalingen lijken primair te zijn geschreven tegen discriminatie van vreemdelingen. Het Hof heeft evenwel in zaak 14/68 uitgemaakt dat art. 7 EEG ook de eigen onderdanen van een Lid-Staat beschermt tegen ongunstiger behandeling.

Voor het vrije verkeer van werknemers laten echter art. 48 (3) EEG en art. 96 Euratom een uitzondering uit hoofde van (o.m.) de openbare orde toe. M.i. valt de voorgestelde norm zeker uit dien hoofde te verdedigen, mits duidelijk is dat zij niet strekt tot bescherming van commerciële belangen.

Voor de vrijheid van bedrijfs- en beroepsuitoefening kent art. 97 Euratom zulk een uitzondering niet. Dit artikel geldt echter niet voor de bouw van defensie-installaties.

Mitsdien lijkt een norm die Nederlanders, onder bepaalde omstandigheden, verbiedt mee te werken aan niet-vreedzame toepassingen van kernenergie in een andere Lid-Staat van de EG, toelaatbaar.

- 17) Een lichte aarzeling hierover vindt nochtans grond in art. 56 (1) EEG (idem art. 66), dat wel de uitzondering voor openbare orde kent met betrekking tot de vrijheid van bedrijfs- en beroepsuitoefening, doch die uitzondering naar de letter beperkt tot discriminatie van vreemdelingen.

Ook Troberg, in: Kommentar zum EWG-Vertrag (deel 1, uitgave 1974, blz. 467), meent dat, wat de vrijheid van vestiging betreft, de achterstelling van eigen burgers niet is te toetsen aan de artt. 52 e.v. Wij vallen dan terug op de lex generalis in art. 7.

Misschien valt deze aarzeling weg onder art. 223 lid 1 (b) EEG (produktie van of handel in wapens, munitie en oorlogsmateriaal), maar daarvoor zou dan de desbetreffende, naar ik meen op 15-4-1959 door de Raad ingevolge art. 223 (2) vastgestelde (niet gepubliceerde) lijst van produkten moeten worden geraadpleegd.

Desnoods zal, voor zover U de norm uitsluitend tot Nederlanders wenst te richten, een uitzondering moeten worden gemaakt, c.q. een "automatische" toestemming moeten worden verleend, voor werk in een der Lid-Statens.

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- 18) Gelet op het voorgaande lijkt het mij volkenrechtelijk en, onder voorbehoud van de opvatting van Justitie, strafrechtelijk toelaatbaar in de Nederlandse wetgeving als onrechtmatig te kwalificeren:

A:

- arbeid met nader te omschrijven "gevoelige" nucleaire technologieën,
- waar ook ter wereld (Nederland of elders),
- door ieder (zonder onderscheid naar nationaliteit),
- die zijn kundigheid daartoe in Nederland heeft ontwikkeld en aan wie, bij aanvaarding van zijn werkkring in Nederland, het onderwerpelijke voorschrift uitdrukkelijk is voorgehouden,
- behoudens toestemming van de Nederlandse overheid;


en / of B:

- arbeid met nader te omschrijven "gevoelige" nucleaire technologieën,
- ten dienste van niet-vreedzame toepassingen van kernenergie,
- in of ten behoeve van andere Staten dan die waarmee Nederland militair is verbonden (Noot: binnen de EG wordt dusdoende alleen Ierland verboden terrein).
- door iedere Nederlander.

- 19) Van de doelmatigheid van de voorgestelde norm mogen wij ons niet te veel voorstellen. Nederland kan zijn rechtsmacht niet uitoefenen zolang de dader in het buitenland is, tenzij de sanctie zich zou richten op eventueel in Nederland grijpbare belangen (vermogensbestanddelen, pensioenrechten, Nederlanderschap). Uitlevering aan Nederland is doorgaans uitgesloten omdat in de betrokken andere Staat de geïncrimineerde gedraging uiteraard niet strafbaar zal zijn.

Een vreemdeling, zelfs als hij in Nederland heeft beloofd zich conform de norm te gedragen, kan zich teruggekeerd in eigen land vrij voelen van verplichtingen t.o.v. de Nederlandse samenleving. Hij zal slechts moeten oppassen hier niet terug te keren.

Alleen een Nederlander zal zich wellicht twee keer bedenken alvorens te zondigen.

 22/9

Actie overheid bleef uit

Douane

Onderschepte

UC-leverantie aan Pakistan

(Van onze redactie buitenland)

Op 10 september 1979 wordt een zending metalen buizen met bestemming Pakistan bij de grens teruggestuurd. Bij een routine-onderzoek blijken de gegevens op de vrachtbrief niet te kloppen.

De lading is afkomstig van het Tilburgse

bedrijf Van Doorne's Transmissies. Als de lading metaal weer terug is op het bedrijf wordt het haastig op een veilige plaats opgeborgen.

De bedrijfsleiding zet de werknemers onder druk. Het personeel wordt verboden ook maar iets over het gebeuren te vertellen.

derdeel van een ultracentrifugefabriek.

Pakistan bouwt zo'n fabriek, wellicht met de bedoeling om een atoomboom te ontwikkelen. De Pakistaanse metaaldeskundige Kahn deed in ons land de benodigde kennis op over het ultracentrifugeproces (hij werkte bij UCN te Almelo), alsmede over bedrijven die onderdelen leveren.

Enige maanden geleden onthulde De Waarheid dat dit bedrijf 6500 stalen buizen leverde aan Pakistan. Deze buizen vormen een essentieel on-

Pakistan heeft deze onderdelen overal in West-Europa op slinkse wijze aangeschaft.

Van Doorne

De Landelijke Editie Muurkranten vult de door ons reeds gepubliceerde informatie op drie punten aan. Het eerste is de bovengeciteerde mededeling dat een vrachtauto met buizen bij de grens is teruggestuurd.

De Waarheid 4.9-'80

K.F.I. / A.J.

ontvangt forse staatsubsidies. Regeringscommissarissen zijn de heren van Heusden (de „sancorder“ van Nederhorst) en O.H. van Roy (commissaris van Hoogovens-Esteh). De regering was al ver voor 1977 op de hoogte van het dubieuze optreden van de Pakistaanse metallurg Kahn. Bovendien had de grensovergang van de vrachtwagen tot afdrukken moeten leiden, omdat de export van de metalen buizen in strijd met het uit 1963 stammende uitvoer

Copie conform: M, R, T, S, PLVS, DGPZ, DGES, DGIS, plv. DGIS, AMAD, VADV, JURA, ADOS, ANPO, PLAN, DEU, DWH, DAM, DOA, DAV, DCV, DIE, DES, DRW, DIO, DAL, DLA, DAF, DKP, DAZ, AP, DBD, PS, RS, VDO, DPN.

*DOAZA DAU/MS DRW/AT DIO/PL-DU ISLAMABAD
LONDEN - BONN - WASHINGTON - BERN
JERUZALEM*

27 OKT. 1980

Ministerie van Economische Zaken

22 oktober 1980

No. 577

MOGELIJKE GEVOLGEN VAN KWESTIE KHAN

Het lid van de Tweede Kamer de heer Jansen (PPR) heeft aan de Ministers van Economische Zaken en van Buitenlandse Zaken op 25 september 1980 de volgende schriftelijke vraag gesteld.

Zal het uitlekken van gevoelige nucleaire kennis uit Nederland naar Pakistan, dan wel de export van nucleair gevoelig materiaal naar Pakistan door Nederlandse ondernemingen gevolgen kunnen hebben voor de houding van de Verenigde Staten ten aanzien van het gebruik en de behandeling na gebruik van kernbrandstof van de Nederlandse kerncentrales, gemaakt uit uranium, dat door de Verenigde Staten geleverd is of zal worden geleverd?

Toelichting.

In de Volkskrant d.d. 23 september jl. wordt bericht van een Amerikaans verbod op opwerking in Frankrijk van Zwitserse kernbrandstof gemaakt uit Amerikaans uranium op grond van de leverantie van gevoelig materiaal aan Pakistan.

De Minister van Economische Zaken, drs. G.M.V. van Aardenne, heeft mede namens zijn ambtgenoot van Buitenlandse Zaken, dr. C.A. van der Klaauw, deze vraag als volgt beantwoord.

Ik heb het eindrapport dat ter zake op 29 februari 1980 aan Uw Kamer is overhandigd (Kamerstuk 16.082, nr. 1) indertijd eveneens - met een Engelse vertaling - aan de Verenigde Staten doen toekomen. Er is geen enkele aanleiding om te veronderstellen dat de VS op grond van de Khan-affaire en de leveranties van Nederlandse ondernemingen aan Pakistan haar houding ten opzichte van het door Nederland gevoerde beleid met betrekking tot de opwerking van bestraalde splijtstofelementen zou willen wijzigen. In dit verband mag ik eraan herinneren, dat voor zover er vanuit Nederland bijgedragen is aan de eventuele realisatie in Pakistan van een verrijkingsinstallatie, dit geens-