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S E C R E T SECTION 01 OF 02 STOCKHOLM 000748

SIPDIS

STATE FOR CA/P/IP BARBARA HALL, PETER THOMPSON, DIANE BEAN AND MARY DOETSCH

C O R R E C T E D C O P Y

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001.2 OF 002 (U) Classified by ADCM Marc Koehler, Reasons: 1.4 (b) and (d).

¶1. (S) SUMMARY: Meetings between the HSPD-6 terrorist screening information negotiation team and the Swedish MOJ and MFA reveal that the current Swedish political climate makes any formal terrorist screening information agreement highly difficult. Existing informal arrangements are working well, according to Swedish officials, who asked whether the status quo would satisfy future requirements under the Enhanced Visa Waiver Program. End Summary.

¶2. (SBU) On 23 October 2008, a joint State (CA)/Terrorist Screening Center (TSC) team met separately with Swedish MFA and MOJ counterparts to discuss possibilities and arrangements for exchanging of terrorist screening information with Sweden, as required by Homeland Security Presidential Directive 6 (HSPD-6) (reftel A). The MFA was represented by Director of the Americas Office Ambassador Maria Lundqvist, Senior Americas Desk Officer Paula Wennerblom, and Desk Officer for the Security Policy Office Sofie Hillbom. Swedish MOJ participants included Dr. Anna-Karin Svensson, Director of the Division for Police Issues, International Police Cooperation and Crisis Management; Frida Faxborn, Division for Police Issues Desk Officer; and Legal Advisor Annika Waller. The HSPD-6 negotiating team included Diane Bean, Senior Coordinator, Office of International Programs, DOS/CA; Peter Thompson, Lead Negotiator, Office of International Programs, DOS/CA; Zandra Flemister, Deputy Director, Terrorist Screening Center; and Wynne Teel, Attorney-Adviser, DOS/L/CA. They were accompanied by Post's Consul and a Vice-Consul.

¶3. (S) After passively receiving an overview of HSPD-6 and the secure web-based query system through which Sweden would have access to the Foreign Partner Extract of the Terrorist Screening Database (TSDB), Ambassador Lundqvist noted this issue was strictly a matter for the MOJ to negotiate and that the MFA's only role was to keep itself informed of the issues at stake. She went on to say that this was a particularly sensitive time politically in Sweden for issues involving government surveillance and affecting personal privacy (reftel C), indicating that negotiations were unlikely to proceed quickly. Nevertheless, she appreciated that concluding some sort of exchange agreement would satisfy U.S. requirements for Sweden's continued participation in the enhanced Visa Waiver Program and agreed to underscore this issue with her MOJ colleagues. Lundqvist appeared to accept the U.S. interpretation that such a proposal falls under EU third pillar, and thus was a matter within the competence of individual member states (see reftel B).

¶4. (S) During their subsequent meeting with the MOJ, the HSPD-6 team was able to drill much deeper into substantive issues, discussing the legal basis for HSPD-6, describing specific procedures for the use and protection of sensitive data, and brainstorming ways to approach a workable agreement which might be politically palatable. The team emphasized that the TSC database was primarily an investigatory tool, particularly in dealing with asylum cases, and was to be seen as augmenting existing channels of information exchange with the United States. The team also emphasized that the United States is flexible as to the form of an arrangement, and shared with the Swedes a model aide-memoire that might, with attached procedures, be an approach to consider.

¶5. (S) The MOJ team expressed their appreciation for the flexibility of the U.S. side in regards to memorializing any agreement. They expressed a strong degree of satisfaction with current informal information sharing arrangements with the U.S., and wondered whether the putative advantages of an HSPD-6 agreement for Sweden would be offset by the risk that these existing informal channels, which cover a wide range of law enforcement and anti-terrorism cooperation, would be scrutinized more intensely by Parliament and perhaps jeopardized. Dr. Svensson reiterated MFA concerns about the current political atmosphere in Sweden. She believed that, given Swedish constitutional requirements to present matters of national concern to Parliament and in light of the ongoing controversy over Sweden's recently passed surveillance law, it would be politically impossible for the Minister of Justice to avoid presenting any formal data sharing agreement with the United States to Parliament for review. In her opinion, the effect of this public spotlight could also place other existing informal information sharing arrangements at jeopardy.

¶6. (S) As an alternative, Dr. Svensson asked the HSPD-6 team to inquire with Washington whether or not continued participation in the Visa Waiver Program was

fundamentally contingent on signing a formal data sharing agreement or non-binding arrangement along the lines of the model shared with Sweden, or could the currently strong but informal arrangements satisfy DHS's requirements. More specifically, Faxborn and Waller suggested that Sweden's most problematic issue might be having access to the database, but in a brain-storming mode asked whether an arrangement could be reached that would formalize sharing of Swedish information on known and suspected terrorists, but STOCKHOLM 00000748 002.2 OF 002 would not/not include Sweden's access to the TSDB. The meeting concluded with promises for further consideration on both sides.

¶7. (S) Comment: While MOJ was expected to raise concerns about the need for EU coordination on this issue, they did not. Moreover, they were clearly in no hurry in the present political climate to move towards a formal agreement, or to risk jeopardizing existing informal data sharing arrangements with the U.S. In that respect, the MOJ does not appear to view the proposed non-binding arrangement as a net gain. The MOJ's notion of a one-sided, informal data exchange arrangement reflects Swedish constitutional restrictions on the use of intelligence, combined with a willingness to continue feeding information to the U.S. through existing informal channels. In the longer term, while a changed political environment in Sweden might be more conducive to a formal agreement with the U.S., there is a very clear GOS belief that Sweden is not likely to be a direct target for terrorists and therefore has little to gain from an HSPD-6 agreement. WOOD