

ACTION STR-00

INFO LOG-00 AID-00 CIAE-00 CTME-00 DODE-00 EB-00 EUR-00
E-00 UTED-00 VCI-00 FRB-00 TEDE-00 INR-00 VCIE-00
NSAE-00 ISN-00 OMB-00 ISNE-00 SP-00 SSO-00 TRSE-00
BBG-00 IIP-00 G-00 SAS-00 /000W
-----6D14BC 121458Z /79

P 220849Z NOV 05
FM AMEMBASSY STOCKHOLM
TO SECSTATE WASHDC PRIORITY 9387
INFO USDOC WASHDC PRIORITY 2431

UNCLAS STOCKHOLM 001981

RELEASE IN PART B5

STATE PLEASE PASS USTR

STATE FOR JOHN STRUBLE AND JOELLEN URBAN

STATE ALSO FOR DAS CHRISTOPHER MOORE, EB TRADE POLICY AND
PROGRAMS

COMMERCE FOR JAY BURGESS, OFFICE OF EUROPEAN COUNTRY AFFAIRS

E.O. 12958: N/A
TAGS: KIPR, ETRD, ECON, SW
SUBJECT: SWEDISH DEFICIENCIES IN INTERNET PIRACY ENFORCEMENT
HIGHLIGHTED BY MPA VISIT TO SWEDEN

1. This is an action request. Please see para 9.
2. Summary. In a visit to Sweden last month to raise the growing concerns about Internet privacy in Sweden, the Motion Picture Association of America (MPA), together with its Swedish partner the Anti-piracy Bureau (APB), met with Ambassador Bivins and separately with Swedish State Secretary of Justice, Dan Eliasson. Embassy has followed up with Justice Ministry officials and MPA's legal counsel in Sweden. The MPA is particularly concerned about PirateBay, the world's largest Torrent file-sharing tracker. According to the MPA and based on Embassy's follow-up discussions, the Justice Ministry is very interested in a constructive dialogue with the U.S. on these concerns.
3. Embassy understands that State and Commerce officials have also met with Swedish officials in Washington on the same concern. Embassy Stockholm requests additional guidance from Washington as detailed in paragraph 9. End Summary.
4. MPA's Senior Vice President John Malcolm told Ambassador Bivins that the MPA is very concerned about Internet piracy in Sweden. Malcolm singled out Sweden as the world's worst offender of Internet piracy by far. In subsequent conversations with Justice Ministry officials, that view has not been countered.

REVIEW AUTHORITY: Clarke Ellis,
Senior Reviewer

5. Justice Ministry officials have confirmed that State Secretary Eliasson was disturbed by what he heard from the MPA and showed a real willingness to address the problem and the enforcement deficiencies. According to one of those officials, Christoffer Demery, the Justice Ministry will host a high level meeting with enforcement officials.

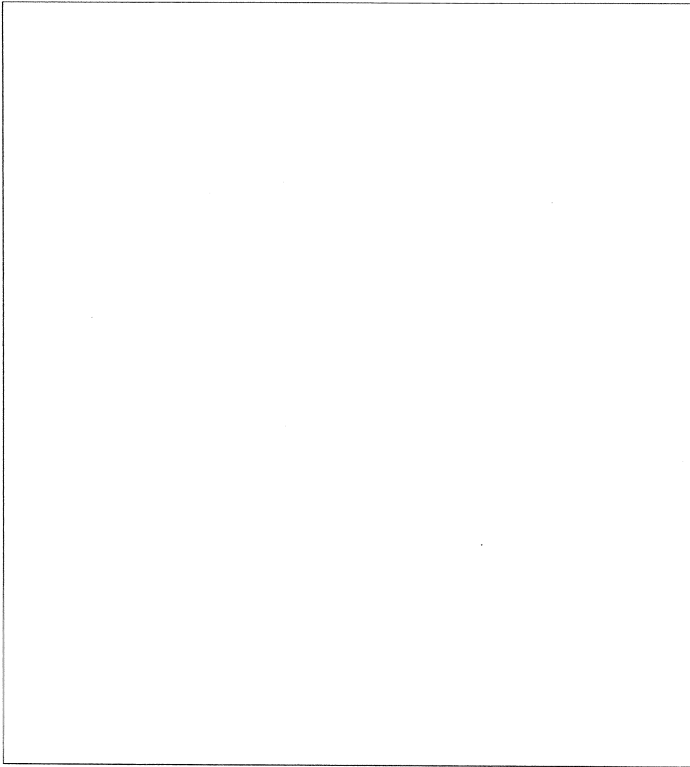
6. Demery also told Embassy Econ officials that he understands Washington will send Sweden "a series of questions" as a follow up to meetings in Washington (the week of November 7-11) with the visiting Swedish Director General for Trade, Anders Ahnlid where the issue of Internet piracy came up. Demery said that Ahnlid meet at State with DAS Christopher Moore in EB, Trade Policy and Programs, and at Commerce, with Jay Burgess, Director, Office of European Country Affairs. According to Demery, in one of those discussions, the parties agreed that the U.S. would supply the Swedish Justice Ministry officials with questions. Demery read Swedish email correspondence to us over the phone to demonstrate that the GOS is eager to try to resolve the problem. (Comment: It is apparent to us that Sweden would want to avoid negative references in publications such as the NTE report and the Special 301 Watch list.)

7. Since the MPA visit, two Internet-related court cases have been on trial concerning whether up-loading a movie (and thus making it available for down-loaders on the Internet) is in violation of Swedish copyright law. The courts reached a guilty verdict in both cases and sentenced the offenders to substantial fines. Swedish commentators argue about the importance of these rulings. Fines, instead of imprisonment, has as a consequence that the police cannot demand that Internet Service providers (ISPs) give out personal information about its customers that can serve as a basis for search warrants. For that a sentence of imprisonment is necessary. Other commentators argue that since up-loading only one movie is sentenced with rather substantial fines, it is logical to expect that those who make larger numbers of movies available might get sentenced to imprisonment. (Comment. We have yet to see a "big fish" tried -- something the MPA badly wants to see, particularly in light of the fact that Sweden hosts the largest Bit Torrent file-sharing tracker in the world, "Pirate-Bay", which openly flaunts IPR. However, it is not clear to us what constraints Sweden and even U.S. authorities would be under in pursuing a case like this when the site is legally well advised and studiously avoids storing any copyrighted material. End comment.)

8. The visit by MPA and the heightened attention around this issue coincided with the deadline for Embassy Stockholm's submission of input into next year's National Trade Estimate Report. We suggested the following language:

Begin text of Post submitted NTE-language:

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End text of suggested NTE-language.

9. Action request: Embassy requests guidance and instructions (particularly with respect to the Swedish understanding that Washington will be generating questions) on how to further address this issue. End action request.

10. We will e-mail the following documentation to JoEllen Urban: MPA's report "The Swedish Piracy Landscape" and MPA's report on its meeting with Justice State Secretary Eliasson.

BIVINS

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ACTION EEB-00

RELEASE IN PART B5

INFO LOG-00 AID-00 AMAD-00 CIAE-00 INL-00 DOTE-00 EUR-00
OIGO-00 E-00 FAAE-00 UTE-00 VCI-00 H-00 TEDE-00
INR-00 IO-00 LAB-01 LOC-01 L-00 VCIE-00 NSAE-00
ISN-00 OES-00 NIMA-00 ISNE-00 SP-00 IRM-00 STR-00
TRSE-00 NCTC-00 CRYE-00 FMP-00 CBP-00 BBG-00 DRL-00
NFAT-00 SAS-00 /002W

-----82CA1A 211515Z /38

R 211516Z FEB 07
FM AMEMBASSY STOCKHOLM
TO SECSTATE WASHDC 1725
USDOC WASHDC 2510
INFO EUROPEAN POLITICAL COLLECTIVE

UNCLAS STOCKHOLM 000189

STATE FOR EB/TPP/IPE: JENNIFER BOGER

REVIEW AUTHORITY: Clarke Ellis,
Senior Reviewer

STATE PLEASE PASS TO USTR FOR JCHOE-GROVES

DOC FOR ITA/MAC/OIPR: CASSIE PETERS

SENSITIVE

E.O. 12958: N/A
TAGS: KIPR, ECON, ETRD, SW
SUBJECT: YEAR 2007 SPECIAL 301: SWEDEN

A) 06 STOCKHOLM 313, B) 06 STOCKHOLM 634, C) 06 STOCKHOLM 804, D) 06
STOCKHOLM 903, E) 06 STOCKHOLM 1493, F) STATE 7944

1. (SBU) Summary. The International Intellectual Property Alliance (IIPA) has, in its yearly Special 301 submission to USTR, identified piracy enforcement problems in Sweden, but did not recommend that Sweden be placed on of the Special 301 lists.

Embassy has continued its involvement with industry, Swedish government officials, and Washington agencies to further elevate Sweden's awareness of its internet piracy problem. Internet piracy received massive media coverage after the police raid of the Pirate Bay Bit-Torrent tracker site in May 2006. Coverage was largely unfavorable to the positions taken by rights-holders and the USG. Nonetheless, we see an increasing effort on the part of Sweden to tackle its growing piracy problem. The new government, and in particular the new Justice Minister, has come down on the side of rights-holders. The Justice Ministry will, over the course of 2007, work to introduce legal tools that will strengthen anti-piracy enforcement. End summary.

2. (U) The International Intellectual Property Alliance (IIPA) has, in its yearly Special 301 submission to USTR, identified widespread internet piracy and difficulties in achieving effective enforcement against criminal copyright infringement as problems in Sweden, but did not recommend that Sweden be placed on one of the

Special 301 lists. The IIPA used the term "country deserving special mention", due to what IIPA argues are IPR deficiencies which merit attention by the USG in its bilateral engagement with Sweden.

3. (SBU) Embassy has been continually engaged with industry, rights-holders organizations, the GOS, and Washington agencies, to elevate the awareness of the situation in Sweden. After the raid on Pirate Bay on May 31, 2006, the issue of internet piracy was fiercely debated in Sweden (Ref C and D). The GOS was accused of caving in to USG pressure. The delicate situation made it difficult, if not counter-productive, for the Embassy to play a public role. Behind the scenes, the Embassy worked well with all stakeholders. In the run-up to the September general elections, the large number of first-time voters made many politicians nervous (Ref E). In the end, the piracy issue did not have any decisive role in the election, though it was widely debated in the election campaign.

4. (SBU) The newly-formed Pirate Party, which managed to get enough support to be on the ballot, only managed to get 0.63 percent of the vote. This was far below the party's expectations, but its mere existence is noteworthy. Since the election the new Alliance government and in particular the new Justice Minister has spoken out in defense of IPR. This, together with a number of concrete measures to strengthen existing laws and enforcement tools, is encouraging.

5. (SBU) In response to a March 2006 GOS directive, the National Police Board and the Prosecutor General's Office proposed establishing specialized prosecuting and police units focusing on IPR law enforcement. The prosecutors are setting up a specialized chamber, and some of its prosecutors recently participated in a training seminar set up for police which the FBI, the MPA, and the Swedish Anti-Piracy Bureau were all involved in.

6. (U) In August 2006, the GOS commissioned an expert study with the task of suggesting measures that will stimulate consumer-friendly legal alternatives to access music and film on the internet. This so-called Renfors study (after Ms. Cecilia Renfors, the appointed expert) will present its findings by June of this year.

7. (SBU) The GOS is working towards the goal of changing legislation so that police and prosecutors can get access to information about identities behind IP numbers also in cases where the crime could lead to a fine (rather than prison sentence). Today, law enforcement officials are only allowed to get such information if the infringement could lead to a prison sentence. The proposal has been circulated for public review and has been well received. The GOS will shortly present the actual bill to the Legal Committee of the Parliament. This is an encouraging step; one of the major areas of criticism is that enforcement efforts have been hampered by the problems facing law enforcement officials in trying to obtain sufficient evidence of infringing activities.

8. (SBU) The Justice Ministry is also working on the implementation of the EU's Enforcement Directive. With respect to Internet piracy, the most relevant changes that may be brought about are covered by article 8 of the Directive, which provides a number

of benefits for civil action against piracy. Our contacts have indicated that the GOS is considering changes that will make it possible for rights-holders to require, through the courts, that intermediaries such as ISP's provide personal information for IP numbers involved in infringing activities.

9. (SBU) In addition to Internet Piracy, the IIPA raises concerns that private possession of illegal descrambling devices and unauthorized reception of encrypted satellite signals are not covered by Swedish IPR legislation. Commercial possession and import of decoding devices is illegal, as set forth in the EC's Conditional Access Directive. Justice Ministry contacts tell us that the GOS is proposing legislation that will take care of the identified deficiencies in Swedish law. The needed changes are portrayed as minor, and the GOS does not anticipate any resistance in the review process. An optimistic time-schedule is that a final bill will be presented to parliament this fall.

10. (SBU) Comment:

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Although some aspects of the Pirate Bay network have been reestablished in Sweden, the aggressive action by Swedish authorities in raiding and shutting down the site in May of last year should not be underestimated as a sign of their willingness to take action and their position against illegal piracy. In a series of meetings where IPR issues have been raised with the new government including at the Ambassadorial and Cabinet level, the government has assured us of their strong desire to protect IPR.

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End comment.

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ACTION PER-00

INFO LOG-00 MFS-00 AF-00 A-00 EUR-00 UTED-00 FOE-00
H-00 TEDE-00 IO-00 MOFM-00 MOF-00 NSAE-00 PM-00
IRM-00 NCTC-00 CRYE-00 FMP-00 PMB-00 ALM-00 SAS-00
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-----A6F586 131230Z /38

R 131210Z APR 07
FM AMEMBASSY STOCKHOLM
TO SECSTATE WASHDC 1951

RELEASE IN PART B6

UNCLAS STOCKHOLM 000393

Department for HR/OE/PC

E.O. 12958: N/A
TAGS: AFSN, AMGT, APER, SE
SUBJECT: 2007 Foreign Service National of the Year Award

1. Embassy Stockholm wishes to nominate [redacted]
[redacted] as the 2007 FSN of the Year. [redacted]
has been employed by Embassy Stockholm as an [redacted]
since 1997.

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2. In Embassy Stockholm's judgment, [redacted] is one of the
most talented FSN [redacted] worldwide. She has made
particularly noteworthy contributions to advancing U.S. interests on
two of the U.S.'s most important policy priorities in Sweden:
Advancing collaboration between the U.S. and Sweden on alternative
energy and, 2) Encouraging Sweden to step up efforts to combat
Internet piracy.

REVIEW AUTHORITY:
Clarke Ellis, Senior
Reviewer

3. Alternative Energy: The One Big Thing (OBT) is Embassy
Stockholm's top policy priority. The initiative, which seeks to
achieve a technology breakthrough in alternative energy through
collaboration with Sweden, has been touted by the Department as one
of the most effective new U.S. policy initiatives in Europe; its
success in changing the character of the climate change debate in
Sweden from confrontational to cooperative/collaborative is broadly
recognized and applauded. [redacted] has been the linchpin
to the effective operation of the OBT. She was personally selected
by Amb. Wood to serve [redacted]
[redacted] His selection of [redacted] demonstrates his utmost
confidence in her abilities and judgement. [redacted]
[redacted]

drives the OBT agenda, ensures effective follow-through on SC
actions, plans and organizes OBT outreach events, recommends
relevant OBT interlocutors, and coordinates the Ambassador's travel
to alternative energy sites in Sweden -- one of the most essential
components in advancing the OBT. Her attention to detail is second
to none. [redacted] is spending approximately 70 percent of her time on
advancing the OBT.

4. Internet Piracy: [redacted] has spearheaded [redacted] work
on Internet piracy enforcement in Sweden. The issue is particularly

acute here as Sweden was home to the largest Internet piracy site (Pirate Bay) in the world. The work has involved extensive contacts with the Ministry of Justice, the Motion Picture Agency, as well as the Anti-Piracy Bureau. She is the author of the Embassy's annual submission on intellectual property enforcement for the National Trade Estimate Report as well as the Special 301 report. Internet piracy has been hotly debated here and during the recent election campaign, all PM candidates were asked to express their views. During a very public phase in the debate, [] worked extensively behind the scenes with her well-developed circle of contacts to ensure that U.S. diplomacy brought optimal results. She has received numerous kudos from the Department for her tireless and results-oriented efforts. [] skillful outreach directly led to a bold decision by Swedish law enforcement authorities to raid Pirate Bay and shut it down. This was recognized as a major achievement in Washington in furthering U.S. efforts to combat Internet piracy worldwide.

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5. Employee's position description and performance standards for the position were thoroughly reviewed by the Joint Awards Committee. The Committee certifies that the employee's performance of all important job elements substantially exceeded normal requirements.

6. Certificate citation should read: [] is recognized as the 2007 FSN of the Year for her major contributions to advancing two of the most important policy priorities at Embassy Stockholm: U.S./Swedish collaboration on alternative energy and the U.S. effort to encourage stronger Swedish resolve to combat Internet piracy.

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ACTION EEB-00

INFO LOG-00 AID-00 AMAD-00 CIAE-00 INL-00 DODE-00 PDI-00
 DS-00 DHSE-00 EUR-00 E-00 UTED-00 VCI-00 H-00
 TEDE-00 INR-00 IO-00 LOC-01 L-00 MOFM-00 MOF-00
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 CBP-00 R-00 IIP-00 DSCC-00 PRM-00 DRL-00 NFAT-00
 SAS-00 FA-00 SWCI-00 /001W
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RELEASE IN PART B5,B6

O 081557Z JAN 08
 FM AMEMBASSY STOCKHOLM
 TO SECSTATE WASHDC IMMEDIATE 3045
 INFO DOC WASHDC IMMEDIATE
 USEU BRUSSELS

UNCLAS STOCKHOLM 000019

STATE FOR EEB/TPP/IPE (JURBAN)

STATE PASS USTR FOR DAVID WEINER

REVIEW AUTHORITY: Clarke Ellis, Senior Reviewer
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E.O. 12958: N/A
 TAGS: KIPR, EINT, ETRD, PGOV, SW
 SUBJECT: SWEDEN: INTERNET PIRACY UPDATE

1. (U) Summary: As Foreign Trade Minister Bjorling begins a visit to the U.S. in January, IPR issues remain at the top of our trade agenda. By January 31, the Stockholm Prosecutor's Office plans to indict five people behind the Swedish 'Pirate Bay' website (one of the world's largest BitTorrent tracker sites and a vehicle for large-scale peer-to-peer internet piracy). The upcoming Pirate Bay trial and the ongoing debate regarding a recommendation by the GOS-appointed Renfors Commission are bringing IPR issues back to the political agenda in Sweden. End Summary.

2. (U) [redacted] of Antipiratbyran (the Swedish Anti-piracy Bureau, a local rights-holders organization) told us January 7 about the status of the Swedish government's internet file-sharing case against Pirate Bay. [redacted] said that the prosecutor plans to indict five people behind the Pirate Bay website by January 31, 2008, adding that he hopes to see a trial this spring. In May 2006, Swedish police raided Pirate Bay, but within days the site was up and running again.

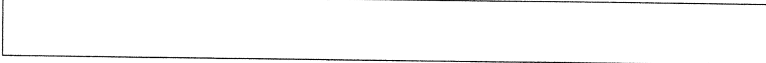
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3. (U) After the May 2006 raid, the GOS appointed a special commission, the 'Music and Film on the Internet - Threat or Opportunity' Commission, commonly known as the Renfors Commission after Commission head Cecilia Renfors, to suggest ways to promote legal alternatives to file-sharing. In September 2007 the Commission proposed that Internet Service Providers (ISPs) should be obligated by law to cancel internet subscriptions of users who illegally share music and movie files on the internet. Should an ISP refuse to cancel the subscription of an infringer, rights-holders could demand that the ISP be fined.

4. (U) Although the Swedish authorities and rights-holders organizations have welcomed the Commission report as a positive first step, some aspects of the report have been criticized in the recently-completed public review process by members of the Swedish media, the Swedish government, the Swedish Bar Association, the Swedish Competition Authority, and politicians from the Moderate and Center parties, part of the ruling government's four-party alliance.

5. (U) The Swedish conservative daily Svenska Dagbladet published an article January 4 by seven Moderate Party Members of Parliament criticizing the findings of the Renfors Commission and calling for the legalization of all file-sharing. Some critics claim that granting ISPs the power and the legal obligation to cancel subscriptions will weaken the Rule of Law. Proponents of the bill want further additions that will prevent illegal file-sharing from ISPs based outside Sweden.

6. (U) Comment: Considerable controversy surrounds the domestic debate on how the Government of Sweden (GOS) should deal with increasing internet piracy problems in Sweden. Swedes generally accept illegal file-sharing as a part of modern life. We recommend



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SILVERMAN

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ACTION EEB-00

INFO LOG-00 AID-00 AMAD-00 CIAE-00 INL-00 DOTE-00 DS-00
DHSE-00 EUR-00 OIGO-00 E-00 FAAE-00 UTED-00 VCI-00
H-00 TEDE-00 INR-00 IO-00 LAB-01 LOC-01 L-00
VCIE-00 DCP-00 NSAE-00 OES-00 NIMA-00 EPAU-00 PA-00
PER-00 DOHS-00 SP-00 IRM-00 STR-00 TRSE-00 NCTC-00
CRYE-00 FMP-00 CBP-00 BBG-00 EPAE-00 DSCC-00 DRL-00
NFAT-00 SAS-00 FA-00 /002W
-----64DB5F 280959Z /38

RELEASE IN PART
B5,B6

R 280952Z FEB 08
FM AMEMBASSY STOCKHOLM
TO SECSTATE WASHDC 3220
USDOC WASHDC 2544
INFO EU MEMBER STATES COLLECTIVE

UNCLAS STOCKHOLM 000161

STATE FOR EEB/TPP/IPE:JENNIFER BOGER

STATE PLEASE PASS TO USTR FOR JCHOE-GROVES

DOC FOR ITA/MAC/OIPR:CASSIE PETERS

SENSITIVE

E.O. 12958: N/A
TAGS: KIPR, ECON, ETRD, SW
SUBJECT: YEAR 2008 SPECIAL 301: SWEDEN

A) 07 STOCKHOLM 189, B) STATE 9475

1. (SBU) Summary. The International Intellectual Property Alliance (IIPA) has, in its yearly Special 301 submission to USTR, identified problems of internet piracy in Sweden, and requests that Sweden be placed on the Special 301 Watch List in 2008.

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2. (SBU) Summary continued. Ambassador will continue to engage with key Ministers during and after the Special 301 review process.

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3. (SBU) Summary continued. We have seen progress in four areas:

REVIEW AUTHORITY:
Clarke Ellis, Senior
Reviewer

work on implementation of EU's Enforcement Directive (paras 7-8); the establishment of specialized police and prosecutor units (para 9); changes to legislation so that police and prosecutors can get access to personal information behind IP numbers for crimes of "lower dignity" (para 10); and the indictment of four individuals behind the Pirate Bay site (para 11). Key to GOS efforts to curb internet piracy will also be how it implements the proposals of the Renfors Commission (paras 12-13).

End summary.

4. (U) The International Intellectual Property Alliance (IIPA) has, in its yearly Special 301 submission to USTR, identified widespread internet piracy and difficulties in achieving effective enforcement against criminal copyright infringement as problems in Sweden, and has requested that Sweden be placed on the Special 301 Watch List for 2008. (Note. In 2006 and 2007, the IIPA placed Sweden in its category "country deserving special mention", but did not actually request a formal USTR listing.)

5. (SBU) Embassy has been continually engaged with industry, rights-holders organizations, the GOS, and Washington agencies, to elevate the awareness of the situation in Sweden. Since the September 2006 general election the new Alliance government and in particular the new Justice Minister have spoken out in defense of IPR.

6. (SBU) Ambassador Wood recently contacted the [redacted] to convey U.S. industry concerns and to gauge GOS involvement in the issue. Within 24 hours, [redacted] came to the embassy to brief Ambassador Wood and Country Team members. During the briefing, [redacted] assured Ambassador Wood that the GOS is making its "best efforts" to address internet piracy. [redacted]

[redacted] Ambassador Wood will speak directly to Minister Olofsson about this at a dinner taking place in Washington on March 4.

Information following concerning GoS anti-piracy efforts was conveyed to the Ambassador in the embassy meeting and had been discussed with the Ministry of Justice previously at working levels.

7. (U) In July 2007, the GOS presented a proposal for the implementation of EU's Enforcement Directive. The proposal includes a provision that will allow the court to order an Internet Service Provider to give the rights-holder information about the identity of persons that commit copyright infringements on the internet. The purpose is to make it easier for rights-holders to take civil action.

8. (U) The legislative process to implement this proposal was

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delayed while the GOS awaited the ruling in the European Court of Justice (the Promusicae-case). The Court ruling came on January 29 of this year. We will not summarize that decision in this cable except to note that the ruling of the Court of Justice made it clear that Member states can decide at a national level if it shall be

possible for a rights-holder to go to court to apply for a ruling forcing an internet service provider to disclose the identity of the owner of an IP address that is being used for copyright infringing activities. Justice Ministry officials confirmed that the decision makes it possible for the Government to present the Swedish parliament with a proposal for the implementation of the Enforcement Directive. The Government will introduce this proposal before June 2008. The new legislation will then come into effect on January 1, 2009, at the earliest.

9. (SBU) The GOS has set up a specialized prosecution and police unit which will focus on IPR law enforcement. One prosecutor has been named and recruitment of a second specialized prosecutor has begun. Rights-holder organizations tell the Embassy that they are pleased with the first appointment, and they view the concentration of investigative efforts in a positive light. Six special police investigators are assigned to this unit, and an additional 16 investigative police officers will receive special training in the field during the spring of 2008 and then join the unit.

10. (SBU) The Justice Ministry has also worked towards the goal of changing legislation so that police and prosecutors can get access to information about identities behind IP numbers in cases where the crime could lead to a fine (rather than a prison sentence). The usual Swedish term for this type of crime (punishable by fine, not prison) is "crime of lower dignity." At present, law enforcement officials are only allowed to get such information if the infringement could lead to a prison sentence. The GOS has agreed to change the legislation, and has commissioned a study to propose the steps needed to implement such a change. The results of the study will be presented by mid-June of this year, after which the normal legislative process will proceed. Although the slow legislative process is disappointing, the GOS has already agreed on the necessary changes that will strengthen the investigative tools of enforcement officials.

11. (SBU) After the raid on Pirate Bay on May 31, 2006, the issue of internet piracy was fiercely debated in Sweden. Press coverage was largely, and still is, unfavorable to the positions taken by rights-holders and the USG. The Pirate Bay raid was portrayed as the GoS caving to USG pressure. The delicate situation made it difficult, if not counter-productive, for the Embassy to play a public role on IPR issues. Behind the scenes, the Embassy has worked well with all stakeholders. Recently, after 18 months of investigation, the prosecutor filed indictments against four individuals for contribution to copyright infringement because of their activities administrating the Pirate Bay bit torrent webpage. The case is likely to be tried in court before the summer. It is equally likely that any outcome will be appealed to a higher court, which means that the final outcome will not be known for quite some

time. It is, however, important that there is continued progress in this area.

12. (U) In September 2007, Chief Judge Renfors presented a study, commissioned by the GOS in the summer of 2006. Her task was to suggest measures that will stimulate consumer-friendly legal alternatives to access music and film on the internet. Renfors concluded that the legal alternatives available in Sweden do not meet consumer demand. More importantly, Chief Judge Renfors recognized that piracy prevents rights-holders from developing good legal alternatives. As a counter-measure Renfors suggested that an Internet Service Provider (ISP) should have a right and an obligation to cancel, with immediate effect, any contract on the use of its services, if the service has repeatedly been used to commit infringements.

13. (SBU) The conclusions and proposals by Chief Judge Renfors were circulated for public comment. GOS contact tells us that the proposals have received criticism as well as support. We know that rights-holders organizations were predominantly positive. It is clear that having such a responsibility put upon the ISP's is one of the major pieces of the solution to curb internet piracy.

14. (SBU) IIPA's submission also identified, in addition to the internet piracy problems, some hard goods piracy problems -- especially related to Nintendo DS and the Wii game console. Embassy officials have been in touch with the Swedish Games Industry organization. They confirm IIPA's assessment of the situation, and note that the piracy situation hampers the industry's international relations. Implementation of the Enforcement Directive and the Renfors recommendations will help address the problem.

15. (SBU) Comment: The USG has to carefully determine which course of action will be the most productive; (1) a Watch-Listing with potentially negative repercussions in future GOS cooperation and in the public eye; or (2) continuing to exercise influence behind the

scenes, with a potential Watch-Listing looming in the background as a continued threat.

HILTON

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CLASSIFICATION: UNCLASSIFIED

SENSITIVITY: Sensitive

Page 1 of 5

From: svcSMARTMFI
Sent: 3/3/2009 1:43:26 PM
To: SMART Core
Subject: SPECIAL 301 FOR SWEDEN: POST RECOMMENDATION

RELEASE IN PART B5

UNCLASSIFIED

Sensitive

MRN: 09 STOCKHOLM 141
Released (DTG): Mar 03, 2009 / 1843Z (021357Z MAR 09)
From: AMEMBASSY STOCKHOLM
Action: SECSTATE WASHDC, IMMEDIATE
E.O.: 12958
TAGS: KIPR, ECON, ETRD, PGOV, SW
Captions: SENSITIVE, SIPDIS
Sensitivity: Sensitive
Reference: A) STATE 8410; B) 08 STATE 45106
Pass Line: STATE FOR EEB/TPP/IPE:TIMOTHY R MCGOWAN
STATE PLEASE PASS TO USTR FOR JENNIFER CHOE GROVES
Subject: SPECIAL 301 FOR SWEDEN: POST RECOMMENDATION

DE RUEHSM #0141/01 0611357
ZNR UUUUU ZZH
O 021357Z MAR 09
FM AMEMBASSY STOCKHOLM
TO RUEHC/SECSTATE WASHDC IMMEDIATE 4176
INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE

REVIEW AUTHORITY: Clarke Ellis,
Senior Reviewer

UNCLAS STOCKHOLM 000141

STATE FOR EEB/TPP/IPE:TIMOTHY R MCGOWAN

STATE PLEASE PASS TO USTR FOR JENNIFER CHOE GROVES

SENSITIVE

SIPDIS

E.O. 12958: N/A
TAGS: KIPR, ECON, ETRD, PGOV, SW
SUBJECT: SPECIAL 301 FOR SWEDEN: POST RECOMMENDATION

REF: A) STATE 8410; B) 08 STATE 45106

1. (SBU) Summary. Embassy Stockholm recommends that

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CLASSIFICATION: UNCLASSIFIED

SENSITIVITY: Sensitive

Page 1 of 5

CLASSIFICATION: UNCLASSIFIED

SENSITIVITY: Sensitive

Page 2 of 5

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2. (SBU) This cable reviews the progress Sweden has made on the Special 301 Initiative Action plan which we presented to the GOS at the conclusion of the Special 301 review 2008 (Ref B). Post continues to engage very constructively with the GOS, and has good access and a good working relationship with key senior and working level GOS officials. The actions taken since last year's review strengthen the legislative framework and provide better enforcement tools for combating piracy. The Pirate Bay trial is currently being heard in the district court in Stockholm. The last day of the trial is March 4, and the verdict can be expected on or about March 25.

3. (SBU) [REDACTED]

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[REDACTED] The Justice Ministry, with primary responsibility for this issue, is fully on board and well aware of what is at stake. It is currently battling with the Ministry of Enterprise, Energy, and Communication about the next appropriate steps to curb internet piracy. Now that the Enforcement Directive implementation will finally enter into force on April 1, and there will soon be a first District court decision in the Pirate Bay case -- the Justice Ministry will turn its attention to other key issues, primarily the ISP liability issue and extra resources to investigative capabilities. The GOS (led by the Justice Ministry) has to conduct a delicate balancing act, advancing this issue shortly before Sweden assumes the Presidency of the EU, in the early days of the Obama administration, and in the budding election campaign for the EU Parliamentary elections.

End summary.

Background

4. (U) The International Intellectual Property Alliance (IIPA) has, in its yearly Special 301 submission to USTR, identified widespread internet piracy and difficulties in achieving effective enforcement against criminal copyright infringement as problems in Sweden, and has requested that Sweden be placed on the Special 301 Watch List for 2009. Sweden was not placed on the Watch list in 2008, despite industry's demands, but was rather placed in the relatively recent, middle step, named Special 301 Initiative. As part of the Initiative, post conveyed a Special 301 Action plan to the GOS, covering six items where the USG hoped to see progress during 2008.

Review of progress on action plan

5. (U) The Special 301 Initiative Action plan 2008 contained recommendations in six specific areas. The GOS has acted, in various degrees, in five of those areas. A review of progress in the six areas follows in paras 6-11:

6. (SBU) Industry consultations/ISP liability: The GOS held a series of industry consultations in the summer/fall of 2008, with the explicit aim to discuss a voluntary industry agreement involving ISPs and right-holders organizations. Industry contacts reported

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that the ISP's were not willing (they claim they are not able) to take on any action on a voluntary basis. The first round of consultations was concluded without results during the fall of 2008. The Justice Ministry is currently working internally in the GOS to get acceptance for a second round with a clear incentive for progress, i.e. threatening with legislation in the absence of a voluntary agreement. There is some resistance in the Center party led Ministry of Enterprise, Energy, and Communications, and negotiations are on-going at senior GOS-levels.

7. (U) Injunctive relief: The one item without any progress is Action plan item 2, Injunctive relief. The GOS maintains that there are adequate provisions currently on the books in Sweden, and does not intend to introduce new legislation. (Note that industry claims to the contrary were supported by the recommendations of the Renfors Commission, a government study commissioned to look into the file sharing issue. The GOS has declared that it will not further implement Renfors' recommendations. End note.)

8. (U) Implementation of the Enforcement Directive: The bill was approved by Parliament on February 25, and the new provisions will enter into force on April 1, 2009. The political sensitivities made the final handling of the Bill very delicate for the Alliance government. Much of the debate and negotiations have been done in public, and there has been tremendous pressure put on individual MPs. The passage of the implementing legislation is therefore a much greater victory for the GOS than it might appear. Major changes, compared to the original proposal, are:

- the law will not be retroactive, i.e. only for copyright infringements committed after the law has entered into force can a court order that the identity behind an IP-number be handed out.

- The court will make a proportionality assessment, i.e. weigh the need of the rights-holder to get access to the personal identity against integrity aspects of the person behind the IP number. The law now stipulates that a certain scale of infringement will be needed for the court to decide that the information should be handed out. Normally, that would be the case when the infringement consists of up-loading a single film or musical piece – since that typically incurs significant damage to the rights-holder. The same judgment will be made for a significant scale of down-loading copyright protected material. The law establishes that if the infringement is the down-loading of only a "few pieces", then normally the court's assessment should be that the integrity interest must take precedence and the information must not be handed out.

- The law includes provisions that the GOS intends to observe and assess how the law is used, to ensure that the law is indeed used to go after significant cases of copyright infringements. This monitoring will commence immediately once the law has entered into force.

9. (U) Granting police and prosecutors the right to identities behind IP numbers of individuals potentially implicated in copyright crimes of lower dignity, i.e. fines rather than prison sentences: The Justice Ministry has also worked towards the goal of changing legislation so that police and prosecutors can get access to information about identities behind IP numbers in cases where the crime could lead to a fine (rather than a prison sentence). The usual Swedish term for this type of crime (punishable by fine, not prison) is "crime of lower dignity." At present, law enforcement officials are only allowed to get such information if the

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infringement could lead to a prison sentence. The GOS has agreed to change the legislation, and it was made part of a study commissioned to propose the steps needed to implement such a change. The proposed changes were recently separated out from the rest of the study, and were reported in advance to Justice Minister Ask late January 2009. Although the slow legislative process is disappointing, the GOS has already agreed on the necessary changes that will strengthen the investigative tools of enforcement officials.

10. (SBU) Police and prosecutors: There are now two full-time prosecutors dedicated to IPR/copyright issues. Police officers have been trained, but we understand that they are not allowed to devote attention to IPR/copyright issues. They are back in their regular line of duty in their districts, where there are conflicting priorities. We have understood that the prosecutors have alerted that this is a problem for their work - they are "stuck" with a backlog of old errands and without the support of investigative officers. The prosecutors ask for investigative officers that are exclusively devoted to IPR issues, today there are no such investigative capacities. The Justice Ministry has repeatedly asked the Head of the Swedish Police for information about how he plans to come to terms with the investigation deficiencies. Although the GOS recognizes the needs, the budget bill for next year will likely not contain significant increases for law enforcement, given the harsh economic conditions. This is an area where post can work with the GOS and industry to highlight the significant impact additional resources in this area might have.

11. (SBU) Public education: In the fall of 2008, the GOS released a new information material, primarily aimed for youth, which will be broadly distributed in Swedish schools. Justice Minister Ask's staffers are currently considering the pros and cons of engaging Cabinet members in the public debate. Given all the negative attention around the Enforcement directive and the Pirate Bay trial, the determination thus far has been to keep a low profile. The GOS recognizes that there is a real risk that the window of opportunity was lost already several years ago - when leading politicians didn't take the debate. How to engage at this point is a delicate matter.

PQBay

12. (U) After the raid on Pirate Bay on May 31, 2006, the issue of internet piracy was fiercely debated in Sweden. Press coverage was largely, and still is, unfavorable to the positions taken by rights-holders and the USG. The Pirate Bay raid was portrayed as the GOS caving to USG pressure. The delicate situation made it difficult, if not counter-productive, for the Embassy to play a public role on IPR issues. Behind the scenes, the Embassy has worked well with all stakeholders. After 18 months of investigation, the prosecutor filed indictments against four individuals for contribution to copyright infringement because of their activities administrating the Pirate Bay bit torrent webpage. The case is currently being heard in the district court in Stockholm, and the trial is scheduled to be completed on March 4. The sentence is expected on or about March 25, i.e. before the conclusion of the Special 301 review process. However, we fully expect that any outcome will be appealed to a higher court, which means that the final verdict will not be known for several years.

PhRMA's drug pricing issue

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13. (U) PhRMA has also requested that Sweden be put on the 2009 Special 301 Watch List. The request is based on the GOS decision to de-regulate the pharmacy market in Sweden and the alleged plans to reduce prices of patented pharmaceuticals on the Swedish market with the aim to finance the redesign. The price cut is believed to be as high as 10 percent.

14. (U) According to the Swedish Ministry of Health and Social Affairs, the GOS does not plan to impose a general price cut on patented pharmaceuticals, but rather has the intention of maintaining a model for a value based pricing system. TLV, the Dental and Pharmaceutical Benefits Agency, a central government agency, has been assigned to suggest principles for pharmacy mark-up and to suggest how the profitability in the pharmacy market will be assessed and followed up. TLV will present its proposals to the GOS on April 1 this year.

15. (U) As of March 2 there is no decision, nor anything in writing, that confirms that the GOS is actually proposing a 10 percent general price cut on patented pharmaceuticals.

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