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E.O. 12356: DECL:OADR

TEXT

TAGS: PREL, AU
SUBJECT: REQUEST FOR DOCUMENTS USED IN
-- WALDHEIM DECISION

REF: (A) VIENNA 6911 (B) VIENNA 6915 (C) STATE 133116

1. CONFIDENTIAL-ENTIRE TEXT

2. THIS CABLE RESPONDS TO THE FORMAL REQUEST MADE BY FOREIGN MINISTER MOCK TO AMBASSADOR LAUDER FOR THE "BASIS ON WHICH THE DEPARTMENT OF JUSTICE REACHED ITS DECISION TO EXCLUDE WALDHEIM." (REFTEL A)

3. THERE ARE FOUR CATEGORIES OR SOURCES OF INFORMATION ON WHICH THE DECISION TO PLACE PRESIDENT WALDHEIM ON THE "WATCH LIST" IS BASED: A) DOCUMENTS AVAILABLE FROM THE U.S. ARCHIVES AND OTHER PUBLIC SOURCES; B) DOCUMENTS MADE AVAILABLE TO THE USG BY THE YUGOSLAV GOVERNMENT AND THE UN; C) THE IMMIGRATION AND NATIONALITY ACT AND THE PROCEDURES IN PLACE TO IMPLEMENT IT; D) SUBMISSIONS AND MATERIALS SUBMITTED BY MR. WALDHEIM.

4. WE CAN BE HELPFUL ON A) AND C). THE GOA, HOWEVER,

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SOURCES METHODS EXEMPTION 3B2B
NAZI WAR CRIMES DISCLOSURE ACT
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WILL NEED TO SEEK THE YUGOSLAV AND UN MATERIAL ON ITS OWN

(FYI: WHEN OUR EMBASSY APPROACHED THE YUGOSLAV GOVERNMENT ON THIS, THEY WERE TOLD THAT THE WALDHEIM FILES WOULD BE MADE AVAILABLE TO OTHERS). WE WOULD NOT BE PREPARED TO MAKE AVAILABLE TO THE GOA ANY INTERNAL MEMOS OR ANALYSES AS SUGGESTED BY EVA NOWOTNY (REFTEL A) FOR TWO REASONS. FIRST, THESE ARE INTERNAL DOCUMENTS NOT MEANT TO BE SHARED WITH OTHER GOVERNMENTS. WE HAVE A GENERAL POLICY OF REFUSING SUCH REQUESTS. SECOND, AND EQUALLY IMPORTANT, ANY DOCUMENTS COULD BE THE BASIS FOR SELECTIVE LEAKS, NEEDLESSLY PROLONGING AND EXACERBATING AN ALREADY BITTER DEBATE.

4. WE WANT TO BE AS RESPONSIVE AS POSSIBLE TO MOCK'S REQUEST. WE PROPOSE TO SEND TO VIENNA A JUSTICE TEAM CONSISTING OF SENIOR OFFICIALS INVOLVED IN THE WALDHEIM INVESTIGATION ACCOMPANIED BY A SENIOR STATE DEPARTMENT ATTORNEY. THE TEAM WOULD GIVE TO THE GOA THE DOCUMENTS DESCRIBED IN PARA 3 A) ABOVE. THEY WOULD BE PREPARED TO BRIEF SENIOR GOA OFFICIALS ON THE DOCUMENTS, THE IMMIGRATION AND NATIONALITY ACT, AND ON THE BASIS FOR THE DECISION.

5. WE BELIEVE THIS APPROACH HAS SEVERAL ADVANTAGES. IT WILL BE A CONCRETE, VISIBLE SYMBOL OF THE FACT THAT WE TAKE AUSTRIAN CONCERNS SERIOUSLY AND VALUE OUR FRIENDSHIP. IT WILL SHOW THAT WE ARE PREPARED TO BE OPEN AND RESPONSIVE IN OUR TREATMENT OF THIS ISSUE. IT WILL DEMONSTRATE THAT WE HAVE NO REASON TO BE DEFENSIVE ABOUT THE DECISION.

6. TEAM MEMBERS WOULD BE DEPUTY ASSISTANT ATTORNEY GENERAL MARK RICHARD, DIRECTOR OF THE OFFICE OF SPECIAL INVESTIGATIONS NEAL SHER AND DEPUTY LEGAL ADVISER MARY MOCHARY. AS EMBASSY KNOWS, ALL THREE WERE KEY PLAYERS IN THE INVESTIGATION AND ARE EXPERT ON THE LEGAL AND FACTUAL BASIS FOR IT. THEY WILL BE IN LONDON THE WEEK OF MAY 11 AND COULD BE AVAILABLE TO BRIEF THE GOA ON FRIDAY, MAY 15.

7. IN THE AMBASSADOR'S ABSENCE THE CHARGE IS INSTRUCTED TO SEEK AN IMMEDIATE MEETING WITH EITHER CHANCELLOR VRANITZKY OR FOREIGN MINISTER MOCK (OR BOTH) TO MAKE THE FOLLOWING POINTS:

--AMBASSADOR LAUDER RELAYED YOUR GOVERNMENT'S REQUEST FOR THE DOCUMENTS USED IN THE DECISION ON KURT WALDHEIM'S ELIGIBILITY TO ENTER THE U.S. TO WASHINGTON.

--SOME OF THE DOCUMENTS WERE OBTAINED FROM THE FILES OF THE YUGOSLAV GOVERNMENT AND THE UN. WE BELIEVE IT

APPROPRIATE THAT YOU REQUEST THAT INFORMATION DIRECTLY FROM THEM.

--IN RESPONSE TO YOUR REQUEST, THE U.S. PROPOSES TO SEND A DELEGATION CONSISTING OF SENIOR OFFICIALS TO VIENNA TO

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DELIVER SELECTED DOCUMENTS FROM THE U.S. ARCHIVES USED IN THE DECISION.

--THE DELEGATION WOULD BE PREPARED TO MEET WITH CHANCELLOR VRANITZKY AND YOU TO EXPLAIN THE LEGAL AND FACTUAL BASIS FOR THE DECISION. THEY WOULD BE PREPARED TO RESPOND TO YOUR QUESTIONS.

--IF YOU AGREE, THE DELEGATION, CONSISTING OF MARK RICHARD, DEPUTY ASSISTANT ATTORNEY GENERAL, NEAL SHER, DIRECTOR OF THE OFFICE OF SPECIAL INVESTIGATIONS, AND MARY MOCHARY, DEPUTY LEGAL ADVISER TO THE SECRETARY OF STATE COULD VISIT VIENNA ON MAY 15.

--THE DELEGATION MEMBERS WERE INVOLVED FROM THE BEGINNING IN THE INVESTIGATION INTO THE ALLEGATIONS AGAINST **KURT WALDHEIM** AND ARE EXPERT ON THE FACTUAL AND LEGAL ASPECTS OF IT.

--THIS OFFER IS BEING MADE TO DEMONSTRATE THE SERIOUSNESS WITH WHICH WE TREAT YOUR CONCERNS AS EXPRESSED TO AMBASSADOR LAUDER AND OUR DESIRE TO CONTINUE A POSITIVE DIALOGUE BETWEEN AUSTRIA AND THE U.S.

8. ATTORNEY GENERAL MEESE HAS AGREED IN PRINCIPLE TO MEET WITH CHANCELLOR VRANTIZKY IN WASHINGTON. HE WOULD BE PREPARED TO DISCUSS THE WALDHEIM INVESTIGATION AS WELL AS OTHER TOPICS OF MUTUAL INTEREST (TERRORISM, FOR EXAMPLE). CHARGE SHOULD INFORMALLY COMMUN CATE THIS OFFER. THE ATTORNEY GENERAL HAS TWO AVAILABLE TIMES--4:00 ON EITHER MAY 21 OR 22. THE MAY 21 SLOT IS PREFERABLE. WE NEED AN ANSWER IMMEDIATELY, SINCE THE ATTORNEY GENERAL'S SCHEDULE GETS FILLED QUICKLY. SHULTZ

ADMIN
END OF MESSAGE

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