

An Roinn Gnóthaí Eachtracha agus Trádála Department of Foreign Affairs and Trade

Our Ref: Fol/Req/2017/236

Conor Hunt
RTÉ Newsroom
Donnybrook,
Dublin 4

8 December 2017

Dear Mr.Hunt,

I refer to the request which you have made under the Freedom of Information Act 2014 for access to records held by this Department, as follows:

All correspondence and exchanges, including emails and memos, between the Minister for Foreign Affairs and Trade and his officials in relation to a proposed visit to North Korea by Minister of State Halligan.

I refer also to the acknowledgement of your request which was sent to you on 24 November 2017.

I have identified 13 records that fall within the scope of your request. The records are listed in the schedule attached. I have made a decision to grant 7, part-grant 1, and refuse 5 of the records. The purpose of this letter is to explain that decision. This explanation has the following parts:

1. A schedule of all of the records covered by your request;
2. An explanation of the relevant findings concerning the records to which access is denied, and
3. A statement of how you can appeal this decision should you wish to do so.

This letter addresses each of these three parts in turn.

1. Schedule of records

A schedule is enclosed with this letter, it shows the documents that the Department of Foreign Affairs and Trade considers relevant to your request. It describes each document and refers to the sections of the FOI Act which apply in the case of exemptions. The schedule also refers you to sections of the detailed explanation given under heading 2 below, which are

relevant to the document in question. It also gives you a summary and overview of the decision as a whole.

2. Findings, particulars and reasons for decisions to deny access

The sections of the Act which can apply to deny access to documents are known as its exemption provisions. Access to certain documents has been refused based upon the exemptions in the Act relating to “Deliberations of FOI bodies” (s29)(1); “Security, defence and international relations” (s33)(1)(d); and “Restriction of Act” (s42)(j).

Section 29 (1) states:

A head may refuse to grant an FOI request—

- (a) if the record concerned contains matter relating to the deliberative processes of an FOI body (including opinions, advice, recommendations, and the results of consultations, considered by the body, the head of the body, or a member of the body or of the staff of the body for the purpose of those processes), and
- (b) the granting of the request would, in the opinion of the head, be contrary to the public interest,

and, without prejudice to the generality of *paragraph (b)*, the head shall, in determining whether to grant or refuse to grant the request, consider whether the grant thereof would be contrary to the public interest by reason of the fact that the requester concerned would thereby become aware of a significant decision that the body proposes to make.

I have considered **section 29 (1)** of the Act in making my decision not to release certain documents. The factors I have considered include the right of the public to have access to information; the need for an open, transparent and accountable civil service and the need for decision-making to be scrutinised. However, on balance, I am satisfied that the public interest would not be better served by the release of these records.

This decision is grounded in the fact that the Department of Foreign Affairs & Trade needs to preserve confidentiality with regard to certain sensitive subject matter, taking into account the circumstances of certain communications.

Section 33(1)(d) states:

“A head may refuse to grant an FOI request in relation to a record (and in particular but without prejudice to the generality otherwise of this subsection, to a record to which subsection (2) applies) if, in the opinion of the head, access to it could reasonably be expected to affect adversely –

- (d) the international relations of the State.”

I have considered **section 33 (1)(d)** of the Act in making my decision not to release certain documents. The Department of Foreign Affairs and Trade operates in a complex and diverse environment. A mutuality of confidence exists in the communication between this Department and our interlocutors. This is particularly the case in respect of diplomatic communications. I have considered the possibility and likelihood that the release of these records could result in negative consequences, and prejudice the ability of this Department to effectively discharge its functions. To do otherwise would risk compromising the State's capacity to engage with international partners through diplomatic channels.

Section 42 (j) states:

This Act does not apply to –

(j) a record given by an FOI body to a member of the Government or a Minister of State for use by him or her for the purposes of any proceedings in either House of the Oireachtas or any committee of either or both of such Houses or any subcommittee of such a committee (including such proceedings in relation to questions put by members of either such House to members of the Government or Ministers of State (whether answered orally or in writing)).

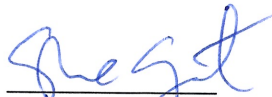
Material to which the Act does not apply, in accordance with Section 42 (j) has been redacted in part or exempted in full.

Right of Appeal

Should you wish to appeal this decision, you may do so in writing to the Freedom of Information Unit, Department of Foreign Affairs and Trade, 76-78 Harcourt Street, Dublin 2 or by email to foi@dfa.ie. A fee applies for an appeal for access to non-personal information; the level of this fee has been set at €30. For methods of payment, please contact FOI Unit at foi@dfa.ie, or 01-4082857.

You should make your appeal within 4 weeks (20 working days) from the date of this notification. However, the making of a late appeal may be permitted in appropriate circumstances. The appeal will involve a complete reconsideration of the matter by a more senior member of the staff of this Department.

Yours sincerely,



Shane Sargeant
Desk Officer
Asia Pacific Unit
Department of Foreign Affairs and Trade