



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

Our Ref: FoI/Req/19/266

3rd October 2019

Dear Mr Murphy,

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:

'A copy of all correspondence (including emails) to and from Tánaiste Simon Coveney in relation to fishing rights at Rockall since June 1. 2019.'

I refer also to the acknowledgement of your request which was sent to you on 17th September. As noted in this acknowledgement, your request was received in this department on 9th September and, as such, will cover records up to this date.

I have identified 15 records that fall within the scope of your request. The records are listed in the schedule attached. I have made a decision to grant 2 records and refuse 13 records under the following sections of the Act: Section 27(1)(b); Section 29(1)(a); Section 30(1)(c); Section 33(1)(d); and Section 35(1)(a).

Section 29(1)(a) of the Act refers to records which contain matter relating to the deliberative process of FOI bodies. I have considered whether the public interest would be better served by releasing the records in question in terms of the right of the public to have access to information and the need for accountability and transparency in the decision making processes of public bodies. However, given the source and nature of these records I am satisfied that their release would negatively impact on the decision making and information sharing process of this Department. In particular, I believe the release of these records, and the insight they give on politically sensitive issues, would adversely affect the ability and process of this Department to continue its work on these issues and with the same interlocutors. As such, and on balance, I have decided the public interest would not be best served by releasing these records.

Section 30(1)(c) applies to records which, if released, could reasonably be expected to “disclose positions taken, or to be taken, or plans, procedures, criteria or instructions used or followed, for the purpose of any negotiations carried on or being, or to be, carried on by or on behalf of the Government or an FOI body.” In relation to the records falling under this exemption, the public interest arguments I have considered favouring release include enhanced public understanding of the issues and reasons for positions taken. However, I have decided not to release the record at this time as its release would impair decision-making without any countervailing benefit to the public.

Section 33(1)(d) refers to records which, if released, could reasonably be expected to adversely affect the international relations of the State. With regard to international relations, this Department is

responsible for managing relations between Ireland and 178 countries, in a complex and diverse environment. Successful diplomatic relations depend upon the creation and maintenance of trust and confidence between governments. Based on the Department's direct knowledge and expertise in international relations, its strongly held position is that the mere granting of access to records will adversely affect the State's relations by introducing major doubts with regard to the security and confidentiality of our diplomatic communications. It is important to maintain that mutuality of trust to protect and promote Ireland's interests internationally. I have considered the possibility and likelihood that the release of the records could result in negative consequences and their likely severity. On balance I am satisfied that the balance favours refusal rather than release.

Section 35(1)(a) refers to records "containing information given to an FOI body, in confidence and on the understanding that it would be treated by it as confidential". The public interest arguments I have considered include the right of the public to access information. However, I have also considered whether releasing the records falling under this exemption would prejudice such giving of information in future, and in my opinion releasing the records would have this effect. I am therefore obliged to refuse the request.

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

Alan O'Brien
Ireland, United Kingdom and Americas Section
Department of Foreign Affairs and Trade