



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

Our Ref: Fol/Req/20/192

10 November 2020

Dear Mr. Mahon

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 between the Asia Pacific Unit and the Secretary General's Office and Tánaiste's Office on the topic of concerns re Hong Kong, from May 2020 to present. Internal memos created by the unit on the situation.'

I refer also to the acknowledgement of your request which was sent to you on 19 October 2020.

I have identified 29 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 of the records, part-grant 8 of the records and refuse 19 of the records.

The decision to refuse access to these records has been made under a number of exemptions of the Freedom of Information Act.

Section 33(1)(d) stipulates that a head may refuse to grant an FOI request in relation to a record if, in the opinion of the head, access to it could reasonably be expected to adversely affect international relations of the State. 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. Given the sensitivity of this topic, and its live and ongoing nature, I believe that this exemption is applicable to these records.

I have also applied Section 29(1) of the Freedom of Information Act to a number of these records. This exemption stipulates that a head may refuse to grant access to records containing matters relating to the deliberative process of a public body. 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, I am satisfied that their release would negatively impact on the decision making and information sharing process of this Department. I believe the release of these records, and the insight they give

on politically sensitive issues, would adversely affect the ability of this Department to continue its work on these issues and with the same interlocutors. On balance, I have decided the public interest would not best be served in releasing this small number of records.

In addition to this, Section 28(1) applies to records related to Meetings of the Government, and is a mandatory exemption for a period of 5 years. Section 28(1)(a) refers to records that have been submitted to the Government for its consideration by a Minister of the Government, and Section 28(1)(c) refers to records that contain information for a member of Government for use solely for the purpose of the transaction of any business of the Government at a meeting of the Government. This exemption applies to a number of records that fall under this request, as listed in the attached Schedule of Records.

Finally, while Section 37(1) Personal Information is a mandatory exemption I am still obliged to consider whether the public interest would be best served by releasing the records in full. I have taken into account the benefit to the public to be given access to correspondence in a manner which demonstrates transparency and accountability of the Department. The information redacted relates to personal contact information and does not affect the substance of the record. I have particularly considered whether releasing the personal information would provide any additional benefit in this regard. I have weighed this against the right of individuals to have their personal information remain private and have found that there is a clear prerogative for this information to remain private.

A number of Parliamentary Questions have also been answered on the topic of Hong Kong in recent months, which are already in the public domain and which you may find useful. These can be found on the website of the Houses of the Oireachtas

(<https://www.oireachtas.ie/en/debates/questions/>), in particular the below reference numbers:

- 9530/20
- 9723/20
- 10897/20
- 15358/20
- 18551/20
- 31215/20

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, (€10 for medical card holders). A copy of the medical card should be provided to avail of the reduced fee. For methods of payment, please contact FOI Unit at foi@dfa.ie, or 01-4082618.

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,

A handwritten signature in blue ink that reads "Sarah Finn". The signature is written in a cursive style with a horizontal line underneath the name.

Sarah Finn

Desk Officer, Asia Pacific Unit