



Australian Government
Department of Foreign Affairs and Trade

FOI Reference: LEX 11676
File Reference: 24/40915

December 2024

Tyler

By email: foi+request-12179-be278bac@righttoknow.org.au

Dear Tyler

Re: Freedom of Information Request

I refer to your request received by the Department of Foreign Affairs and Trade (the department) for access to documents under the *Freedom of Information Act 1982* (the FOI Act).

I am writing to provide you with a decision about your request.

I have identified documents relevant to your request. After careful consideration, I have decided to grant you access to the documents, with exempt material removed.

Your request

On 18 October 2024, you sought access to:

- documents that were submitted to the Governor-General for approval of appointment of Hon. Dr Brendan Nelson to the posts of Ambassador to the European Communities, Belgium and Luxembourg, Representative to the North Atlantic Treaty Organisation and Special Representative to the World Health Organization;

- letters of credence, or similar written correspondences, from and to Australia (with the above countries and organisations), conveying and accepting (or otherwise confirming) the above appointment.

On 14 November 2024, the department requested a 21-calendar day extension of time to process your request (section 15AA of the FOI Act).

On 14 November 2024, you consented to the extension of time. The department subsequently notified the Office of the Australian Information Commissioner (OAIC) of the extension of time in accordance with our reporting obligations.

Authority

I am an officer authorised under section 23 of the FOI Act to make decisions in relation to FOI requests.

Reasons

In making my decision I have taken into account:

- the terms of your request;
- the documents within the scope of your request;
- the FOI Act; and
- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (FOI Guidelines).

The reasons for my decision and for the application of exemptions under the FOI Act to the document are set out below. Where I refer to sections of the FOI Act, these are available at www.legislation.gov.au. Where I refer to parts of the FOI Guidelines, these are available at www.oaic.gov.au/freedom-of-information/freedom-of-information-guidance-for-government-agencies/foi-guidelines.

Material communicated in confidence (section 33(b) of the FOI Act)

Under section 33(b) of the FOI Act, a document is exempt if disclosure would divulge any matter communicated in confidence to the Australian Government by or on behalf of a foreign government, an authority of a foreign government or an international organisation.

Information is communicated in confidence by or on behalf of another government or international organisation if it was communicated under an express or implied understanding that the communication would be kept confidential (FOI Guidelines, paragraph 5.46).

Paragraph 5.44 of the FOI Guidelines also provides that an understanding of confidentiality need not be formal and may be inferred from the circumstances in which the communications occurred.

For these reasons, I have decided that the information marked up in the documents is exempt under section 33(b) of the FOI Act.

Review rights

Information about your review rights is set out in the **Attachment** for your reference.

Contact

Should you have any queries regarding this matter please contact the Freedom of Information Section by email (foi@dfat.gov.au).

Yours sincerely

Catherine Reid
Assistant Secretary
Department of Foreign Affairs and Trade

Your review rights

Internal review

You may apply for internal review of the decision ([section 54 of the FOI Act](#)). The internal review application must be made within 30 calendar days from the day you receive this notice.

Where possible, please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by another officer within 30 days.

Any request for internal review should be directed via email to foi@dfat.gov.au or addressed to:

Freedom of Information Section
Department of Foreign Affairs and Trade
R G Casey Building
John McEwen Crescent
Barton ACT 0221
Australia

Australian Information Commissioner

You may apply to the Australian Information Commissioner to review my decision ([section 54L of the FOI Act](#)). To do this, you must contact the Australian Information Commissioner within 60 calendar days from the day you receive this notice.

You may also make a complaint to the Australian Information Commissioner about the Department's actions in relation to this decision ([section 70 of the FOI Act](#)). Making such a complaint about the way the Department has handled your FOI request is a separate process to seeking review of my decision.

Further information on applying for an Australian Information Commissioner review is available at: www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-reviews.

Further information about how to make a complaint is available at: www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-complaints.

Third party review rights

Further information about third party review rights are available on the Office of the Australian Information Commissioner's (OAIC) website at www.oaic.gov.au/freedom-of-information/freedom-of-information-guidance-for-government-agencies/freedom-of-information-reviews/personal-and-business-information-third-party-review-rights.