



14 February 2025

Tyler
Right to Know

By email: foi+request-12762-6f07bed8@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) on 23 January 2025 for access under the *Freedom of Information Act 1982* (the FOI Act) to:

*Is it possible to provide the following information/documents about Article 4 paragraph 2, of the Australia-Tuvalu Falepili Union Treaty 2023?
<https://www.dfat.gov.au/geo/tuvalu/australia-tuvalu-falepili-union-treaty>*

- Article 4 paragraph 2 of this Treaty says "The Parties shall enter into an instrument to set out the conditions and timeframes applicable to Australian personnel operating in Tuvalu's territory." Has this instrument been entered into?

- Is it possible to provide a copy of this instrument (as entered into)?

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

Decision

I am an officer authorised under section 23 of the FOI Act to make decisions in relation to FOI requests and have been appointed as the decision-maker on your request.

At the present time, Australia and Tuvalu have not yet entered into the instrument referenced in Article 2 Paragraph 4 of the Falepili Union. As a result, the department does not hold any documents relevant to your FOI request.

In accordance with section 24A(1) of the FOI Act, your request for access to documents is refused as all reasonable steps have been taken to find the document and I am satisfied that the document does not exist.

Sections of the FOI Act referenced in my decision letter can be found online at www.legislation.gov.au.

Review rights

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

Contact

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

Yours sincerely

A handwritten signature in black ink that reads "J. McNamara" followed by a long horizontal flourish.

Joseph McNamara
A/Director
Freedom of Information Section



REVIEW AND COMPLAINT OPTIONS

If you consider the department made the wrong decision, please request a review.

If you are dissatisfied with the way your request was processed, please make a complaint.

REVIEW

How to seek a review of this decision

Internal review by the department

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.

A new decision maker, who was not involved in the initial decision, will review your request, and make a new decision within 30 calendar 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

External review by the Information Commissioner (IC)

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

Further information on applying for an IC review is available on Office of the Australian Information Commissioner's (OAIC) website.ⁱ

Third party review rights

Third parties who were consulted by the department are entitled to seek an internal review of the department's decision to grant access to a document.

Further information about third party review rights is available on OAIC's website.ⁱⁱ

You may also apply for an external review by the IC (section 54L of the FOI Act). To do this, you must make your application within 30 calendar days from the day you receive this notice.

COMPLAINT

How to make a complaint about process

Complaint to the department

If you wish to make a complaint about how your FOI request was processed by the department, we welcome you sending an email with the details of your complaint to the department in the first instance via foi@dfat.gov.au.

Complaint to the IC

You may also make a complaint to the IC about the Department's actions in relation to this decision (section 70 of the FOI Act).

Further information about how to make a complaint is available on OAIC's website.ⁱⁱⁱ