



Department for International Trade

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FOI2022/03094

30 September 2022

Dear Lorna Doon,

Thank you for your emails sent to us on the 12th of July where you requested the following information (I quote):

“(1) Please supply all correspondence between DIT and other government departments relating to the India open general licence sent in the month of February 2022.

Link: <https://www.gov.uk/government/publications/open-general-export-licence-military-goods-and-technology-india>

I'm not interested in the name of officials so these can be redacted before you try to withhold under GDPR.

(2) With respect to FOI2021/00412

- Of those cases with DIT, how many have been issued?
- What annual report summary has been allocated for each?”

Under the Freedom of Information Act 2000 ('the Act'), you have the right to:

- know whether we hold the information you require
- be provided with that information (subject to any exemptions under the Act which may apply).

We can confirm that we hold information that is in scope of Part 1 of your request above, but we have determined that it is exempt from disclosure under section 35 (formulation of government policy) of the Freedom of Information Act 2000 Act. An explanation of why this exemption applies is written below.

Section 35(1)(a) (formulation of government policy)

Section 35(1)(a) applies because the information requested relates to the formulation of government policy. Section 35 is a 'qualified exemption' and requires us to carry out a public interest test to consider whether the balance of interest lies in releasing or withholding the information.

The factors we took into account in carrying out the public interest test in relation to section 35 of the Act are set out below.

Public Interest considerations in favour of disclosure:

- Greater transparency makes government more accountable to the electorate and increases trust;
- The desirability of citizens being confident that decisions are taken on the basis of the best available information;
- Knowledge that the arguments relating to a debate will be released could in fact improve the quality of those arguments. Far from inhibiting the frank provision of advice, there might be circumstances where the prospect of disclosure would enhance the quality of advice.

Public Interest considerations in favour of maintaining the exemption:

- Ministers and their officials need space in which to develop their thinking and explore different options in communications and discussions. We are continuing to use the information at issue here to inform the development of our ongoing policy.
- Ministers and their officials need to be able to think through all the implications of different options. In particular, they need to be able to undertake rigorous and candid assessments of the risks to particular programmes and projects.
- Good government depends on good decision making and this needs to be based on the best advice available and a full consideration of all the options - there may also be a deterrent effect on external experts or stakeholders who might be reluctant to provide advice because it might be disclosed.

Whilst acknowledging the benefits we consider that on this occasion the arguments for upholding the exemption and withholding the information outweigh those in favour of disclosure. We consider that it is important to protect the integrity of the policy making process, and to prevent disclosures which would undermine this process. It is also important to protect the safe space for frank and free discussion and to preserve the convention on collective Cabinet responsibility. Consequently, DIT considers that the need to withhold this information outweighs the public interest.

Follow up to FOI2021/00412

Regarding Part 2 of your request, I am able to provide an update on the answer previously given to you in response to FOI2021/00412.

Of the cases that were with DIT at the time, I can confirm that two outstanding cases have since been completed with licences having been issued and one has been closed due to an expired licence. For ease of reference the following reply refers to the total number of working days you were previously advised that the cases had been outstanding for, and where appropriate, the Annual Report Summary (ARS):

- Case outstanding for 1452 working days – Amendment request closed due to an expired licence and amendment no longer required.
- Case outstanding for 756 working days – Licence issued. ARS: components for launching/handling/control equipment for missiles.
- Case outstanding for 749 working days - Licence issued. ARS: components for military communications equipment.

Please note, the Department for International Trade (DIT) does not publish licence application reference numbers. These are exempt from disclosure by virtue of section 43 (commercial interests) of the Act because of the risk that someone (not linked to the company that applied for the licences) might contact DIT citing the reference number(s) in an attempt to get commercially sensitive information about the application(s).

Furthermore, the two licences referred to in the response were granted in quarter 1 (before the 31st of March 2022). Published licensing information currently includes information up to the 31 March 2022. Therefore, the two ARS are in the public domain through the Annual and Quarterly Reports on Strategic Export Controls. These reports contain detailed information on export licences issued, refused or revoked, by destination, including the overall value, type (e.g., Military, Other) and a summary of the items covered by these licences. The full details are exempt under section 21 of the Act under which there is no right of access to information via Freedom of Information Act (FOIA) when the information is available to you by another route. Published licensing information is available to view on public domain via:

<https://www.gov.uk/guidance/strategic-export-controls-licensing-data>

Appeals procedure

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of the response to your original request and should be addressed to the Information Rights Unit:

Information Rights Unit
Department for International Trade
Old Admiralty Building
London
SW1A 2DY
Email: foi@trade.gov.uk

Please remember to quote the reference number above in any future communications.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours sincerely,

Department for International Trade

