



Reference: BN9119103

FOI 068/19/20 STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT

1. I refer to the application by [REDACTED] under the *Freedom of Information Act 1982* (FOI Act), for access to:

'Copies of briefs, talking points, cables and emails provided to the Minister for Defence relating to the AUSMIN 2019 talks, specifically those related to the development and/or placement and/or testing of mid-range missiles and/or long-range missiles and/or hypersonic missiles in Australia.'

excluding personal email addresses, signatures, PMKeys numbers and mobile telephone numbers, contained in documents that fall within the scope of the FOI request. In addition, excluding duplicates of documents, and documents sent to and from you. Furthermore, Defence only considers final versions of documents.

FOI decision maker

2. I am the authorised officer pursuant to section 23 of the FOI Act to make a decision on this FOI request.

Documents identified

3. I identified four documents as matching the description of the request.

4. The decision in relation to each document is detailed in a schedule of documents.

5. I have added an FOI reference number and item number to each of the documents, which corresponds with the schedule.

Decision

6. I have decided to:

- a. partially release four documents in accordance with section 22 [access to edited copies with exempt or irrelevant matter deleted] of the FOI Act, on the grounds that the deleted material is considered exempt under section 33(a)(iii) [documents affecting international relations] of the FOI Act;
- b. remove irrelevant material as referred to in the scope of the request in accordance with section 22(1)(b)(ii) of the FOI Act.

Material taken into account

7. In making my decision, I had regard to:

- a. the terms of the request;
- b. the content of the identified documents in issue;
- c. relevant provisions in the FOI Act;
- d. the Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines); and

- e. advice received from International Policy Division, Strategic Policy Division, Ministerial Executive Coordination and Communication Division, Defence Science and Technology Group, Vice Chief of the Defence Force Group and the Department of Foreign Affairs and Trade.

Reasons for decision

Section 33(a) (iii) – Documents affecting international relations

9. Section 33(a)(iii) exempts material from release if its disclosure would, or could reasonably be expected to, cause damage to the international relations of the Commonwealth. Paragraph 5.36 of the Guidelines describes international relations as the ability of the Australian Government to maintain good working relations with other governments and international organisations. Paragraph 5.37 of the Guidelines says that “the expectation of damage to international relations must be reasonable in all circumstances, having regard to the nature of the information; the circumstances in which it was communicated; and the nature and extent of the relationship”.

10. Upon examination of the documents, I identified information that related to the cooperative arrangements and activities between the Commonwealth and other foreign governments, or agencies on behalf of their government.

11. Cooperation was provided by foreign governments with an expectation of confidentiality. The disclosure of this information could reasonably be viewed by international partners of the Commonwealth as a breach of trust and could diminish future cooperation from those nations.

12. The documents also contained information relating to Australia’s relationship with, and views of, foreign governments. Release of this information could reasonably be expected to cause damage to these relationships as it relates to the assessments, policies and activities of this government that are either not readily available to the public or acknowledged by these foreign governments. The release of this information would cause a loss of trust and confidence such that a foreign government or its officials would likely be less willing to engage with the Australian Government.

13. Particular consideration has been made regarding the mosaic effect of releasing commentary and information that may on its own appear to be insignificant, however, when combined with other publicly available information divulges specific capabilities or activities. Disclosure of this information could reasonably be expected to cause damage to international relations.

14. Taking into account the above, I find that disclosure of this information would be an unreasonable disclosure and is exempt under section 33(a)(iii) of the FOI Act.

Further Information

15. Some of the documents matching the scope of this request contained a dissemination limiting marker, as the documents are approved for public release the marker has been struck through.

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Matthew Wong
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