Department for International Trade

Department for International Trade
Old Admiralty building
London
SW1A 2DY

[redacted]

T +44 (0)24 551 0011
E Foi@trade.gov.uk
W www.gov.uk/dit

IR2022-04392

20 January 2023

Internal review of our response to your Freedom of Information request (DIT reference: FOI2022/02983)

Dear [redacted],

I am writing following your email of 24th October 2022 asking for an internal review of the response to your Freedom of Information Act (FOIA) request (our reference: **FOI2022/02983**). I am an Information Rights Adviser in the Department for International Trade (DIT) and I have undertaken this review. When carrying out this review, I considered what information DIT held at the time of your request and whether the original response was correct and whether any additional information should now be released to you. I can confirm that I was not involved in the initial handling of your request.

1. **Background**

On 4 July 2022 you requested: *"…any Export Control Joint Unit correspondence on the topic of arms exports and/or arms export licence applications to Saudi Arabia, between 1 October 2016 and 15 October 2016.*

I seek to obtain correspondence on this topic between the ECJU and ministers and their teams, including the Secretary of State for Foreign Affairs, the Secretary of State for International Trade, and the Prime Minister; and also correspondence on the same topic between the ECJU and the (then) FCO's Middle East and North Africa Directorate (MENAD), the Legal Directorate and APS/Foreign Secretary and Head of Outer Office.

Specifically, I seek ECJU correspondence about both applied for and completed applications, and for correspondence in respect of both individual export license applications as well as export licenses applications generally during this time period."

2. DIT response

DIT replied confirming that we hold some of the information which is exempt from disclosure under section 35(1)(a) (formulation of government policy), section 27(1)(a) (international relations) and section 43(2) (commercial interests) of the Freedom of Information Act (the "Act"). Having looked at the response afresh, I have determined that the original response was incorrect. This is because a full search was not undertaken at the time of your request and further information has now been identified that may fall within scope of your request. It is also possible that there is more information that has not been located that may fall within scope of your request. This scenario has occurred because, when your request was originally handled, the range of staff members who potentially hold information relevant to your request was too narrowly applied and we apologise for this error.

3. Internal Review

I have considered how your original request was handled by DIT and have concluded that to identify the full range of staff members who do hold such information and, thereby, to identify which of that information does in fact fall within scope will take a considerable amount of time and resource and will take us over the cost limit to comply with your request. This is due to an incomplete search being undertaken during consideration of your original request and, again, we apologise for this error.

Under section 12(1) of the Act, DIT is not obliged to comply with an information request where to do so would exceed the cost limit.

We hold the information you have requested but we have estimated that the cost of meeting your request would exceed the cost limit of £600 specified in the Freedom of Information Act and Data Protection (Appropriate Limit and Fees) Regulations 2004. We are therefore unable to comply with your request.

To clarify, DIT reconsidered your request as part of the FOI internal review and, upon starting to identify whether the information we hold falls within the scope of your request, it became clear that the time spent assessing whether the information held is relevant to your request would involve a number of members of staff i.e., in order to check through information already located to see whether some or all of it falls within scope and to search for any other information that may potentially fall within scope. I have concluded that in total this would take in excess of 24 hours to

carry out that assessment. This is because the information would have to be individually and manually retrieved. Once retrieved, we would then need to extract the relevant information that falls within the scope of your request.

The £600 limit is based on work being carried out at a rate of £25 per hour, which equates to 24 hours of work per request. The cost of locating, retrieving, and extracting information can be included in the costs for these purposes. The costs do not include considering whether any information is exempt from disclosure, overheads such as heating or lighting, or items such as photocopying, redacting or postage.

4. Advice and assistance

We would be happy to consider a further request for information should you wish to submit one. If so, you might like to narrow the timeframe of your request for example, and you might like to be more specific about the information you particularly wish to obtain i.e., for example, by narrowing the scope of the type of information you have requested (you could for example, consider limiting the number of bodies that you are requesting correspondence between).

It would also help us if you could be more specific about the information you are seeking to obtain in respect of your request for "...ECJU (Export Controls Joint Unit) correspondence about both applied for and completed applications, and for correspondence in respect of both individual export license applications as well as export licenses applications generally during this time period". For example, to help us comply with any new request that you may submit, you might like to consider narrowing this part of your request. For example, by narrowing your request for correspondence to be in respect of either Standard Individual Export licences (SIELs) or Open Individual Export Licences (OIELs). You might also like to be more specific about whether your request includes a request for correspondence that relates to the individual assessment of export licence applications I.e., correspondence that is held on SPIRE, ECJU's web-based export licensing system or whether your request is more general i.e, a request for correspondence held outside SPIRE such as general correspondence between staff/bodies.

5. Conclusion

For the reasons set out above, I have concluded that the original response was incorrect. This is because DIT failed to take account of all information potentially in scope of your request. This was primarily due to DIT's search for information being too narrow in scope. DIT's response to your original request should have cited section 12 (disproportionate costs).

As noted above, we would be happy to consider a refined request should you wish to submit one. However, please note that if the request remains too wide in scope, section 12 may still apply. Also, if a revised request can be considered within the cost limit, it is possible that some or all the information in scope may be exempt from disclosure by virtue of one or more of the other exemptions in the Act, such as section 35 (formulation of government policy), section 36 (prejudice to the effective conduct of public affairs), and/or section 43 (commercial interests). Other exemptions may apply.

Any refined request received by the department will be treated as a new request for information in accordance with the FoI Act.

Appeals procedure

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

Website: https://ico.org.uk/make-a-complaint/

Yours sincerely

Department for International Trade