

XXXXXXXXXXXXXXXXXXXXXXXXXXXX@XXXXXXXXXX.XXX.XX

Is xxx@xxxx.xxx.xx the wrong address for Freedom of Information requests to Department of Foreign Affairs and Trade? If so, please contact us using this form:

https://www.righttoknow.org.au/change_request/new?body=dfat

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<https://www.righttoknow.org.au/help/officers>

If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.

From: FOI
To: s. 22(1)(a)(ii)
Subject: FW: Freedom of Information request - Correspondence between Australia, Indonesia and IOM on the Regional Cooperation Agreement [SEC=UNCLASSIFIED]
Date: Thursday, 17 August 2017 8:07:00 AM

UNCLASSIFIED

Hi s. 22(1)(a)(ii)

I know you have processed a number of requests for Mr Hirsch - does this one sound familiar at all (see email below from DFAT)? If we have already processed or are processing a request in the same terms I won't accept transfer of it and DFAT can do a "no documents" decision. However, if we are not or have not processed a request for the same documents, we will probably have to accept the transfer of the request.

Thanks.

With kind regards

s. 22(1)(a)(ii)

Acting Assistant Director, Freedom of Information Section
 FOI, Privacy and Records Management Branch
 Corporate Division
 Department of Immigration and Border Protection

E: xxx@xxxxxx.xxx.xx

UNCLASSIFIED

-----Original Message-----

From: FOI [mailto:xxx@xxxx.xxx.xx]

Sent: Tuesday, 15 August 2017 1:06 PM

To: FOI <xxx@xxxxxx.xxx.xx>

Cc: s. 22(1)(a)(ii) (DFAT) <s. 22(1)(a)(ii)@dfat.gov.au>

Subject: FW: Freedom of Information request - Correspondence between Australia, Indonesia and IOM on the Regional Cooperation Agreement [SEC=UNCLASSIFIED]

UNCLASSIFIED

Dear colleagues

The Department of Foreign Affairs and Trade has received the below FOI request from Mr Asher Hirsch (Right to Know). We understand this follows an earlier FOI request he submitted to DIBP on a similar issue.

Our key line areas (Indonesia geographic desk, People Smuggling Taskforce) have indicated that DIBP was the lead agency for the Regional Cooperation Agreement and preliminary searches have indicated that DFAT holds no relevant documents. We are therefore seeking your agreement to accept a full transfer of Mr Hirsch's FOI request pursuant to section 16(1)(b) of the FOI Act.

We'd appreciate your response at your earliest convenience.

Regards,

s. 22(1)(a)(ii)

Director, Legal

Freedom of Information and Privacy Law Section Department of Foreign Affairs and Trade

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Released by Department of Home Affairs
 under the Freedom of Information Act 1982

-----Original Message-----

Sent: Saturday, 12 August 2017 4:14 PM

To: FOI <xxx@xxxx.xxx.xx>

Subject: Freedom of Information request - Correspondence between Australia, Indonesia and IOM on the Regional Cooperation Agreement

Dear Department of Foreign Affairs and Trade,

Under the Freedom of Information Act, I request the following documents:

"Correspondence between Australia and Indonesia, and between Australia and the International Organisation for Migration (IOM), regarding the establishment of the Regional Cooperation Agreement (RCA). Correspondence may include letters, emails, phone call logs or transcripts or any other form of communication. Please limit this request to correspondence in 2000 and 2001."

Yours faithfully,

Asher Hirsch

Please use this email address for all replies to this request:

XXXXXXXXXXXXXXXXXXXXXXXXXXXX@XXXXXXXXXXXXX.XXX.XX

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under the Freedom of Information Act 1982

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Subject: RE: Freedom of Information request - Correspondence between Australia, Indonesia and IOM on the Regional Cooperation Agreement [SEC=UNCLASSIFIED]
Date: Thursday, 17 August 2017 9:08:45 AM

UNCLASSIFIED

Hi s. 22(1)(a)(ii)

It is a follow on from his previous request. His previous request was for a copy of the arrangement. (which was nil docs) This one is for correspondence regarding the arrangement. Which we will have documents in scope.

We were expecting a follow up request from him, but not sure why he sent it to DFAT rather than us... we will have to accept the transfer. When you do the acknowledgement and call out can you have the scope amended to add/reflect arrangement 'agreement [arrangement]' . It was never called an agreement, hope this makes sense.

I am also happy to take it, as I dealt with the decision maker and the business area. They are also expecting this new request, I had advised them that one would likely be coming from him.

Cheers s. 22(1)(a)(i)

UNCLASSIFIED

-----Original Message-----

From: FOI

Sent: Thursday, 17 August 2017 8:07 AM

To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@BORDER.GOV.AU>

Subject: FW: Freedom of Information request - Correspondence between Australia, Indonesia and IOM on the Regional Cooperation Agreement [SEC=UNCLASSIFIED]

UNCLASSIFIED

Hi s. 22(1)(a)(ii)

I know you have processed a number of requests for Mr Hirsch - does this one sound familiar at all (see email below from DFAT)? If we have already processed or are processing a request in the same terms I won't accept transfer of it and DFAT can do a "no documents" decision. However, if we are not or have not processed a request for the same documents, we will probably have to accept the transfer of the request.

Thanks.

With kind regards

s. 22(1)(a)(ii)

Acting Assistant Director, Freedom of Information Section FOI, Privacy and Records Management Branch
 Corporate Division Department of Immigration and Border Protection

E: xxx@xxxxxx.xxx.xx

UNCLASSIFIED

-----Original Message-----

From: FOI [mailto:xxx@xxxx.xxx.xx]

Sent: Tuesday, 15 August 2017 1:06 PM

To: FOI <xxx@xxxxxx.xxx.xx>

Cc: s. 22(1)(a)(ii) (DFAT) <s. 22(1)(a)(ii)@dfat.gov.au>

Subject: FW: Freedom of Information request - Correspondence between Australia, Indonesia and IOM on the Regional Cooperation Agreement [SEC=UNCLASSIFIED]

UNCLASSIFIED

Dear colleagues

The Department of Foreign Affairs and Trade has received the below FOI request from Mr Asher Hirsch (Right to Know). We understand this follows an earlier FOI request he submitted to DIBP on a similar issue.

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We'd appreciate your response at your earliest convenience.

Regards,

s. 22(1)(a)(ii)

Director, Legal

Freedom of Information and Privacy Law Section Department of Foreign Affairs and Trade

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-----Original Message-----

From: Asher Hirsch [mailto:xx@xxxxxxxxxxxx.x]x.xx

Sent: Saturday, 12 August 2017 4:14 PM

To: FOI <xxx@xxxx.xxx.xx>

Subject: Freedom of Information request - Correspondence between Australia, Indonesia and IOM on the Regional Cooperation Agreement

Dear Department of Foreign Affairs and Trade,

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Asher Hirsch

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under the Freedom of Information Act 1982

organisation's FOI page.

From: FOI
To: FOI
Cc: s. 22(1)(a)(ii) (DFAT)
Subject: RE: Freedom of Information request - Correspondence between Australia, Indonesia and IOM on the Regional Cooperation Agreement [SEC=UNCLASSIFIED]
Date: Thursday, 17 August 2017 9:20:00 AM

UNCLASSIFIED

Good morning s. 22(1)(a)(i)

Thanks for your email of 15 August 2017, below.

DIBP agrees to accept transfer of this request. Can you please advise the applicant is has been transferred and provide us with a copy of the correspondence.

With kind regards

s. 22(1)(a)(ii)

Acting Assistant Director, Freedom of Information Section
 FOI, Privacy and Records Management Branch
 Corporate Division
 Department of Immigration and Border Protection

E: xxx@xxxxxx.xxx.xx

UNCLASSIFIED

-----Original Message-----

From: FOI [mailto:xxx@xxxx.xxx.xx]

Sent: Tuesday, 15 August 2017 1:06 PM

To: FOI <xxx@xxxxxx.xxx.xx>

Cc: s. 22(1)(a)(ii) (DFAT) <s. 22(1)(a)(ii)@dfat.gov.au>

Subject: FW: Freedom of Information request - Correspondence between Australia, Indonesia and IOM on the Regional Cooperation Agreement [SEC=UNCLASSIFIED]

UNCLASSIFIED

Dear colleagues

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Our key line areas (Indonesia geographic desk, People Smuggling Taskforce) have indicated that DIBP was the lead agency for the Regional Cooperation Agreement and preliminary searches have indicated that DFAT holds no relevant documents. We are therefore seeking your agreement to accept a full transfer of Mr Hirsch's FOI request pursuant to section 16(1)(b) of the FOI Act.

We'd appreciate your response at your earliest convenience.

Regards,

s. 22(1)(a)(ii)

Director, Legal

Freedom of Information and Privacy Law Section Department of Foreign Affairs and Trade

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-----Original Message-----

From: Asher Hirsch [<mailto:xx@xxxxxxxxxxx.xx>]

Sent: Saturday, 12 August 2017 4:14 PM

To: FOI <xxx@xxxx.xxx.xx>

Subject: Freedom of Information request - Correspondence between Australia, Indonesia and IOM on the Regional Cooperation Agreement

Dear Department of Foreign Affairs and Trade,

Under the Freedom of Information Act, I request the following documents:

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Yours faithfully,

Asher Hirsch

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From: FOI
To: [FOI](#)
Cc: [s. 22\(1\)\(a\)\(ii\)](#) [\(DFAT\)](#)
Subject: RE: Freedom of Information request - Correspondence between Australia, Indonesia and IOM on the Regional Cooperation Agreement [SEC=UNCLASSIFIED]
Date: Thursday, 17 August 2017 10:00:59 AM

UNCLASSIFIED

Many thanks [s. 22\(1\)\(a\)\(ii\)](#)

Kind regards,

[s. 22\(1\)\(a\)\(ii\)](#)

Director, Legal
 Freedom of Information and Privacy Law Section
 Department of Foreign Affairs and Trade

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-----Original Message-----

From: FOI [<mailto:xxx@xxxxxx.xxx.xx>]
 Sent: Thursday, 17 August 2017 9:20 AM
 To: FOI <xxx@xxxxxx.xxx.xx>
 Cc: [s. 22\(1\)\(a\)\(ii\)](#) <[s. 22\(1\)\(a\)\(ii\)](#) dfat.gov.au>
 Subject: RE: Freedom of Information request - Correspondence between Australia, Indonesia and IOM on the Regional Cooperation Agreement [SEC=UNCLASSIFIED]

UNCLASSIFIED

Good morning [s. 22\(1\)\(a\)\(ii\)](#)

Thanks for your email of 15 August 2017, below.

DIBP agrees to accept transfer of this request. Can you please advise the applicant is has been transferred and provide us with a copy of the correspondence.

With kind regards

[s. 22\(1\)\(a\)\(ii\)](#)

Acting Assistant Director, Freedom of Information Section FOI, Privacy and Records Management Branch
 Corporate Division Department of Immigration and Border Protection

E: xxx@xxxxxx.xxx.xx

UNCLASSIFIED

-----Original Message-----

From: FOI [<mailto:xxx@xxxxxx.xxx.xx>]
 Sent: Tuesday, 15 August 2017 1:06 PM
 To: FOI <xxx@xxxxxx.xxx.xx>
 Cc: [s. 22\(1\)\(a\)\(ii\)](#) (DFAT) <[s. 22\(1\)\(a\)\(ii\)](#) dfat.gov.au>
 Subject: FW: Freedom of Information request - Correspondence between Australia, Indonesia and IOM on the Regional Cooperation Agreement [SEC=UNCLASSIFIED]

UNCLASSIFIED

Dear colleagues

The Department of Foreign Affairs and Trade has received the below FOI request from Mr Asher Hirsch (Right to Know). We understand this follows an earlier FOI request he submitted to DIBP on a similar issue.

Our key line areas (Indonesia geographic desk, People Smuggling Taskforce) have indicated that DIBP was the lead agency for the Regional Cooperation Agreement and preliminary searches have indicated that DFAT holds no relevant documents. We are therefore seeking your agreement to accept a full transfer of Mr Hirsch's FOI request pursuant to section 16(1)(b) of the FOI Act.

We'd appreciate your response at your earliest convenience.

Regards,

s. 22(1)(a)(ii)

Director, Legal

Freedom of Information and Privacy Law Section Department of Foreign Affairs and Trade

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-----Original Message-----

From: Asher Hirsch [<mailto:xx@xxxxxxxxxxx.xx>]

Sent: Saturday, 12 August 2017 4:14 PM

To: FOI <xxx@xxxx.xxx.xx>

Subject: Freedom of Information request - Correspondence between Australia, Indonesia and IOM on the Regional Cooperation Agreement

Dear Department of Foreign Affairs and Trade,

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"Correspondence between Australia and Indonesia, and between Australia and the International Organisation for Migration (IOM), regarding the establishment of the Regional Cooperation Agreement (RCA). Correspondence may include letters, emails, phone call logs or transcripts or any other form of communication. Please limit this request to correspondence in 2000 and 2001."

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Asher Hirsch

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Important Notice: The content of this email is intended only for use by the individual or entity to whom it is addressed. If you have received this email by mistake, please advise the sender and delete the message and attachments immediately. This email, including attachments, may contain confidential, sensitive, legally privileged and/or copyright information.

Any review, retransmission, dissemination or other use of this information by persons or entities other than the intended recipient is prohibited. DIBP respects your privacy and has obligations under the Privacy Act 1988.

Unsolicited commercial emails MUST NOT be sent to the originator of this email.

Released by Department of Home Affairs
under the *Freedom of Information Act 1982*

From: FOI
To: [FOI](#)
Cc: s. 22(1)(a)(ii)
Subject: FW: Freedom of Information request - Correspondence between Australia, Indonesia and IOM on the Regional Cooperation Agreement [SEC=UNCLASSIFIED]
Date: Thursday, 17 August 2017 11:30:30 AM

UNCLASSIFIED

Good morning,

Please see email below to Mr Asher Hirsch advising his request has been transferred in full to DIBP.

Kind regards,

DFAT FOI TEAM

-----Original Message-----

From: FOI
Sent: Thursday, 17 August 2017 11:26 AM
To: Asher Hirsch <xxxxxxxxxxxxxxxxxxxxxxxxxxxx@xxxxxxxxxxx.xxx.xx>
Cc: FOI <xxx@xxxx.xxx.xx>
Subject: RE: Freedom of Information request - Correspondence between Australia, Indonesia and IOM on the Regional Cooperation Agreement [SEC=UNCLASSIFIED]

UNCLASSIFIED

Dear Mr Hirsch

I refer to your FOI request of 12 August seeking access to:

"Correspondence between Australia and Indonesia, and between Australia and the International Organisation for Migration (IOM), regarding the establishment of the Regional Cooperation Agreement (RCA). Correspondence may include letters, emails, phone call logs or transcripts or any other form of communication. Please limit this request to correspondence in 2000 and 2001."

I am writing to advise you that the Department of Immigration and Border Protection (DIBP) has today accepted a full transfer of your request pursuant to section 16(1)(b) of the FOI Act. DIBP will respond to you directly.

Regards,

DFAT FOI TEAM

-----Original Message-----

From: Asher Hirsch [<mailto:xxxxxxxxxxxxxxxxxxxxxxxxxxxx@xxxxxxxxxxx.xxx.xx>]
Sent: Saturday, 12 August 2017 4:14 PM
To: FOI <xxx@xxxx.xxx.xx>
Subject: Freedom of Information request - Correspondence between Australia, Indonesia and IOM on the Regional Cooperation Agreement

Dear Department of Foreign Affairs and Trade,

Under the Freedom of Information Act, I request the following documents:

"Correspondence between Australia and Indonesia, and between Australia and the International Organisation for Migration (IOM), regarding the establishment of the Regional Cooperation Agreement (RCA). Correspondence may include letters, emails, phone call logs or transcripts or any other form of communication. Please limit this request to correspondence in 2000 and 2001."

Yours faithfully,

Asher Hirsch

Please use this email address for all replies to this request:

xxxxxxxxxxxxxxxxxxxxxxxxxxxx@xxxxxxxxxx.xxx.xx

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From: [FOI](#)
To: s. 22(1)(a)(ii)
Bcc: s. 22(1)(a)(ii)
Subject: New FOI Request – Seeking documents – Asher HIRSCH - FA 17/08/00642 [DLM=For-Official-Use-Only]
Date: Monday, 21 August 2017 8:02:00 AM
Attachments: [Checklist for FOI - Seeking documents.docx](#)

For-Official-Use-Only

Our references: SCR; FA 17/08/00642; ADF2017/87711

Good morning

For Action by Monday 28 August 2017

On 12 August 2017, the Department of Foreign Affairs and Trade received an FOI request from Asher HIRSCH, seeking access to:

‘Correspondence between Australia and Indonesia, and between Australia and the International Organisation for Migration (IOM), regarding the establishment of the Regional Cooperation Agreement (RCA). Correspondence may include letters, emails, phone call logs or transcripts or any other form of communication. Please limit this request to correspondence in 2000 and 2001.’

On 17 August 2017, the Department of Immigration and Border Protection agreed to accept transfer of this request under section 16(1)(b) of the FOI Act.

Your Division has been identified as holding documents that fall within the scope of this request, and we have discussed the request with s. 22(1)(a)(ii) of the Indonesia and Timor-Leste Desk. Could you please assign this request to the relevant business area for action.

If you consider that other business areas within the Department also hold documents that would be relevant to this request, could you please advise us as soon as possible.

Action required:

Documents identified:

- If the number of documents falling within the scope of the request is particularly large (i.e. over 300 pages), please let us know the approximate size of the request as soon as possible so that we can narrow/negotiate the size of the request with the applicant. i.e. please include a document count and the average number of pages; the types of documents captured would also be of assistance.
- Please forward any documents that fall within the scope of this request to xxx@xxxxxx.xxx.xx by **COB Monday 28 August 2017**.
- If there are any problems with meeting this deadline please advise me **as soon as possible**.
- Documents will be reviewed by the FOI Section and possible exemptions considered in consultation with the nominated decision maker. Please note that no information will be released to the FOI applicant without further consultation with you.
- When providing documents to FOI please advise us of any high level concerns; sensitivities; or any harm that would be caused, should the documents/specific information be released. i.e. harm to international relations. This information will

be taken into consideration during the processing of the request.

No documents identified:

- If your area does not have any documents within the scope of this request, please let us know **as soon as possible**.

-

Assistance

Please find attached a checklist designed to assist your area in identifying documents and how to respond to the FOI Section. The advice provided in this checklist will assist in the processing of this FOI request.

The FOI Section is available to provide advice and assistance throughout this matter. If you have questions or require more information please do not hesitate to contact me on the details below.

Thank you for your assistance with processing this request.

Regards

With kind regards

s. 22(1)(a)(ii)

Acting Assistant Director, Freedom of Information Section
FOI, Privacy and Records Management Branch
Corporate Division
Department of Immigration and Border Protection

E: xxx@xxxxxx.xxx.xx

For-Official-Use-Only

FOI CHECKLIST FOR BUSINESS COORDINATION AREA

STAGE 1 - Search and Retrieval of documents

Scope of request

- Ensure you understand the scope of the request. ☐
 - If the scope is unclear, liaise with the FOI Section to clarify with the applicant.
 - Consider whether the request is too broad or there is a large number of documents.

If the request is unclear; too broad; or large please complete the relevant questions below. If not proceed to the Search and retrieval section.

Practical refusal reason / notice

1. What makes the request unclear:
2. Where are documents stored:
3. What is the document / file count:
4. Can you estimate how many pages there are:
Tip: every 1cm equals 100 pages
5. What other areas of the Department may hold documents:
6. Does the content of the documents require third party consultations:
7. If there is sensitive material, what is the nature of the sensitivities:
Tip: International relations; or National Security concerns; etc

During the consultation process under a practical refusal notice, the Department must provide assistance to the applicant to make a revised request.

Search and retrieval of documents

- Identify the documents that fall within the scope of the request ☐
- Provide an un-redacted copy of the documents to the FOI Section (7 calendar days) ☐
- If it is part of your usual practice to prepare a schedule and redact documents you may begin this process after a copy of un-redacted documents have been provided to the FOI Section. ☐

Issues management

When providing documents to the FOI Section please provide any high level concerns with respect to the content of the documents. To assist you please tick the relevant concerns below.

- ☐ International relations
- ☐ National Security
- ☐ Third party business information
- ☐ Third party personal information
- ☐ Ongoing investigation
- ☐ Trade secrets or commercially sensitive material
- ☐ Cabinet documents
- ☐ Other:

Extensions of time

- If it becomes apparent during the processing of this request that the initial processing period of 30 days will be insufficient, liaise with the FOI Section in relation to the extension of time options: ☐
 - **Extension with agreement of applicant**
an extension of no more than 30 days can be agreed to by the applicant. This agreement must be in place before the initial statutory period has expired (s15AA)
 - **Extension for complex/voluminous requests**
application may be made to the Information Commissioner for an extension because the request is complex/voluminous – consider s15AA above/issuing of Charges/Consultation

Consultation

- Do third parties need to be consulted in relation to the following information within the documents: ☐
 - Information that originated with or was received from a State government/authority
 - Business related information
 - Personal information
 - Foreign governments or international organisations
- If yes, notify the FOI Team - a 30 day extension of time will be applied to the initial processing period. ☐
- Should any other Commonwealth agencies be consulted in relation to the documents? ☐
 - **Note:** PM&C should be consulted in relation to documents that may be subject to a Cabinet documents exemption claim.

Time recording

- Keep a record of the time you spend on processing this request. You will be asked to provide a record of the time spent at the end of the matter. ☐

From: FOI
To: Media Operations; JANA Vidoshi; Lachlan COLQUHOUN
Cc: CONNELL Jenet; FRAZER Shannon; MARSHALL Brett; WRIGHT Ben; Steve MCGLYNN; s. 22(1)(a)(ii); s. 22(1)(a)(ii); s. 22(1)(a)(ii); s. 22(1)(a)(ii); s. 22(1)(a)(ii); s. 22(1)(a)(ii); DLO; s. 22(1)(a)(ii); s. 22(1)(a)(ii)
Subject: FOI Alert - New request received by the Department [DLM=For-Official-Use-Only]
Date: Monday, 21 August 2017 8:05:00 AM

For-Official-Use-Only

FOR NOTING AND INFORMATION ONLY – NO ACTION REQUIRED

Our References: FA 17/08/00642: ADF2017\ 87711

SUBJECT: FREEDOM OF INFORMATION (FOI) REQUEST – HIRSCH

Key Points

1. On 12 August 2017, the Department of Foreign Affairs and Trade received a request for access to documents under the *Freedom of Information Act 1982* (FOI Act), from Asher HIRSCH via the Right to Know website.
2. On 17 August 2017, the Department of Immigration and Border Protection agreed to accept transfer of this request from DFAT under section 16(1)(b) of the FOI Act.
3. The applicant is seeking access to:

'Correspondence between Australia and Indonesia, and between Australia and the International Organisation for Migration (IOM), regarding the establishment of the Regional Cooperation Agreement (RCA). Correspondence may include letters, emails, phone call logs or transcripts or any other form of communication. Please limit this request to correspondence in 2000 and 2001.

4. A decision on access to these documents is due on or before Monday 11/09/2017.

Request Status

5. The FOI Section is seeking documents that might fall within the scope of this request from the International Division.
6. For updates on the status of this request please review the Weekly FOI Report, updated every Thursday.

Further enquiries about this FOI request can be directed to me on the below details.

With kind regards

s. 22(1)(a)(ii)

Acting Assistant Director, Freedom of Information Section

FOI, Privacy and Records Management Branch

Corporate Division

Department of Immigration and Border Protection

P: s. 22(1)(a)(ii)

E: foi@border.gov.au

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under the Freedom of Information Act 1982

For-Official-Use-Only

Released by Department of Home Affairs
under the *Freedom of Information Act 1982*

From: s. 22(1)(a)(ii)
To: FOI
Cc: s. 22(1)(a)(ii) s. 22(1)(a)(ii) Robert MCGREGOR; s. 22(1)(a)(ii)
Subject: RE: New FOI Request – Seeking documents – Asher HIRSCH - FA 17/08/00642 [DLM=For-Official-Use-Only]
Date: Monday, 21 August 2017 9:27:05 AM
Attachments: s. 22(1)(a)(ii)
[Re: New FOI Request Seeking documents HIRSCH FA 170600830 DLMFor-Official-Use-Only.msg](#)

For-Official-Use-Only

Hi FOI

Please find attached the 'exchange of letters' between the Australian government and IOM which established the RCA. As per our response to similar request FA 17/06/00830 (attached), the rationale behind not releasing the document is the same:

Please see attached the original "exchange of letters" between DIBP (then DIMA) and IOM in 2000.

Please note there is a risk that the release of these documents could cause potential harm to the bilateral relationship with Indonesia, and Australia's national security, and an exemption should be considered based on these concerns.

Additionally, there are potential commercial concerns for IOM (a key service provider for the department on a large number of projects) should this document be released.

Happy to discuss further once your initial analysis is complete.

Kind regards

s. 22(1)(a)(ii)

Policy Officer, Indonesia and Timor-Leste Desk
 Asia Branch | International Division
 Policy Group
 Department of Immigration and Border Protection
 Telephone: s. 22(1)(a)(ii)
 Email: s. 22(1)(a)(ii) [border.gov.au](mailto:s. 22(1)(a)(ii)@border.gov.au)

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: Monday, 21 August 2017 8:34 AM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@border.gov.au>
Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@border.gov.au>
Subject: FW: New FOI Request – Seeking documents – Asher HIRSCH - FA 17/08/00642 [DLM=For-Official-Use-Only]

Hi s. 22(1)(a)(ii)

Another FOI for your action.

Many thanks,

s. 22(1)(a)(ii)

Sent with Good (www.good.com)

-----Original Message-----

From: FOI

Sent: Monday, August 21, 2017 08:02 AM AUS Eastern Standard Time

To: s. 22(1)(a)(ii)

Subject: New FOI Request – Seeking documents – Asher HIRSCH - FA 17/08/00642
[DLM=For-Official-Use-Only]

For-Official-Use-Only

Our references: SCR; FA 17/08/00642; ADF2017/87711

Good morning

For Action by Monday 28 August 2017

On 12 August 2017, the Department of Foreign Affairs and Trade received an FOI request from Asher HIRSCH, seeking access to:

‘Correspondence between Australia and Indonesia, and between Australia and the International Organisation for Migration (IOM), regarding the establishment of the Regional Cooperation Agreement (RCA). Correspondence may include letters, emails, phone call logs or transcripts or any other form of communication. Please limit this request to correspondence in 2000 and 2001.’

On 17 August 2017, the Department of Immigration and Border Protection agreed to accept transfer of this request under section 16(1)(b) of the FOI Act.

Your Division has been identified as holding documents that fall within the scope of this request, and we have discussed the request with s. 22(1)(a)(ii) of the Indonesia and Timor-Leste Desk. Could you please assign this request to the relevant business area for action.

If you consider that other business areas within the Department also hold documents that would be relevant to this request, could you please advise us as soon as possible.

Action required:

Documents identified:

- If the number of documents falling within the scope of the request is particularly large (i.e. over 300 pages), please let us know the approximate size of the request as soon as possible so that we can narrow/negotiate the size of the request with the applicant. i.e. please include a document count and the average

number of pages; the types of documents captured would also be of assistance.

- Please forward any documents that fall within the scope of this request to foi@border.gov.au by **COB Monday 28 August 2017**.
- If there are any problems with meeting this deadline please advise me **as soon as possible**.
- Documents will be reviewed by the FOI Section and possible exemptions considered in consultation with the nominated decision maker. Please note that no information will be released to the FOI applicant without further consultation with you.
- When providing documents to FOI please advise us of any high level concerns; sensitivities; or any harm that would be caused, should the documents/specific information be released. i.e. harm to international relations. This information will be taken into consideration during the processing of the request.

No documents identified:

- If your area does not have any documents within the scope of this request, please let us know **as soon as possible**.

Assistance

Please find attached a checklist designed to assist your area in identifying documents and how to respond to the FOI Section. The advice provided in this checklist will assist in the processing of this FOI request.

The FOI Section is available to provide advice and assistance throughout this matter. If you have questions or require more information please do not hesitate to contact me on the details below.

Thank you for your assistance with processing this request.

Regards

With kind regards

s. 22(1)(a)(ii)

Acting Assistant Director, Freedom of Information Section
FOI, Privacy and Records Management Branch
Corporate Division
Department of Immigration and Border Protection

E: foi@border.gov.au

For-Official-Use-Only

From: s. 22(1)(a)
To: FOI
Cc: s. 22(1)(a)(ii)
Subject: RE: New FOI Request – Seeking documents – HIRSCH – FA 17/06/00830 [DLM=For-Official-Use-Only]
Date: Friday, 14 July 2017 10:28:00 AM
Attachments: s. 22(1)(a)(ii)

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

In relation to this FOI request:

'A copy of the "Regional Cooperation Agreement" signed in 2001 between Australia, Indonesia and the International Organisation for Migration (IOM).'

Please see attached the original "exchange of letters" between DIBP (then DIMA) and IOM in 2000.

Please note there is a risk that the release of these documents could cause potential harm to the bilateral relationship with Indonesia, and Australia's national security, and an exemption should be considered based on these concerns.

Additionally, there are potential commercial concerns for IOM (a key service provider for the department on a large number of projects) should this document be released.

Happy to discuss further once your initial analysis is complete.

Kind regards

s. 22(1)(a)(ii)

Policy Officer, Indonesia and Timor-Leste Desk
Asia Branch | International Division
Policy Group
Department of Immigration and Border Protection
Telephone: s. 22(1)(a)(ii)
Email: s. 22(1)(a)(ii)@border.gov.au

For-Official-Use-Only

From: FOI
Sent: Thursday, 13 July 2017 2:32 PM
To: s. 22(1)(a)(ii)@border.gov.au>
Subject: RE: New FOI Request – Seeking documents – HIRSCH – FA 17/06/00830 [DLM=For-

Released by Department of Home Affairs
under the Freedom of Information Act 1982

Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

I have been assigned as the case officer for this FOI request, grateful for an update on this request by **COB Friday 14 July 2017**.

Happy to discuss.

with regards,

s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section
Freedom of Information, Privacy & Records Management Branch
Corporate Services Division | Corporate Group
Department of Immigration and Border Protection

T: s. 22(1)(a)(ii)

E: s. 22(1)(a)(ii) [@border.gov.au](mailto:s. 22(1)(a)(ii)@border.gov.au)

E: xxx@xxxxxx.xxx.xx

For-Official-Use-Only

From: FOI

Sent: Thursday, 29 June 2017 8:27 AM

To: s. 22(1)(a)(ii)

Subject: HPRM: New FOI Request – Seeking documents – HIRSCH – FA 17/06/00830 [DLM=For-Official-Use-Only]

Our references: SCR; FA 17/06/00830; ADF2017/67996

Good morning

For Action by Thursday 6 July 2017

On 27 June 2017, the Department received an FOI request from Asher HIRSCH, seeking access to:

'A copy of the "Regional Cooperation Agreement" signed in 2001 between Australia, Indonesia and the International Organisation for Migration (IOM).'

International Division has been identified as holding documents that fall within the scope of this request. Could you please assign this request to the relevant business area for action?

If you consider that other business areas within the Department also hold documents that would be relevant to this request, could you please advise us as soon as possible.

-

Released by Department of Home Affairs
under the Freedom of Information Act 1982

Action required:**Documents identified:**

- Please forward the document that falls within the scope of this request to foi@border.gov.au by **COB 6 July 2017**.
- If there are any problems with meeting this deadline please advise me **as soon as possible**.
- Documents will be reviewed by the FOI Section and possible exemptions considered in consultation with the nominated decision maker. Please note that no information will be released to the FOI applicant without further consultation with you.
- When providing documents to FOI please advise us of any high level concerns; sensitivities; or any harm that would be caused, should the documents/specific information be released. i.e. harm to international relations. This information will be taken into consideration during the processing of the request.

No documents identified:

- If your area does not have any documents within the scope of this request, please let us know **as soon as possible**.

-

Assistance

Please find attached a checklist designed to assist your area in identifying documents and how to respond to the FOI Section. The advice provided in this checklist will assist in the processing of this FOI request.

The FOI Section is available to provide advice and assistance throughout this matter. If you have questions or require more information please do not hesitate to contact me on the details below.

Thank you for your assistance with processing this request.

Regards

With kind regards

s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section

Freedom of Information, Privacy and Records Management Branch | Corporate Support Division

Department of Immigration and Border Protection

E| foi@border.gov.au

Please consider the environment before printing this email

From: [FOI](#)
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii) s. 22(1)(a)(ii)
Subject: FOI Request FA 17/08/00642 - HIRSCH - Draft Decision [DLM=For-Official-Use-Only]
Date: Wednesday, 6 September 2017 4:16:00 PM
Attachments: [FA 170800642 Decision v1.docx](#)

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

Please see attached a draft decision for this FOI request.

Grateful for your review of the content and if you have any input please advise by **COB Tuesday 11 September 2017**.

If you are happy with the content then please date and sign the record, via return email by **COB Tuesday 11 September 2017**.

Happy to discuss.

with regards,

s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section
Freedom of Information, Privacy & Records Management Branch
Corporate Services Division | Corporate Group
Department of Immigration and Border Protection

T: s. 22(1)(a)(ii)

E: s. 22(1)(a)(ii) border.gov.au

E: xxx@xxxxxx.xxx.xx

For-Official-Use-Only

From: s. 22(1)(a)(ii)
To: FOI: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii) s. 22(1)(a)(ii) s. 22(1)(a)(ii)
Subject: RE: FOI Request FA 17/08/00642 - HIRSCH - Draft Decision [DLM=For-Official-Use-Only]
Date: Tuesday, 12 September 2017 4:12:59 PM

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

We are unable to proceed with this one at the moment.

We supplied FOI with one document that falls under the scope of this request, however the decision record states two documents have been identified. As no documents were attached to the decision letter, we are unable to determine if we support this decision record until we are aware of the second document.

Kind regards

s. 22(1)(a)(ii)

Policy Officer, Indonesia and Timor-Leste Desk
 Asia Branch | International Division
 Policy Group
 Department of Immigration and Border Protection
 Telephone: s. 22(1)(a)(ii)
 Email: s. 22(1)(a)(ii) [border.gov.au](mailto:s.22(1)(a)(ii)@border.gov.au)

For-Official-Use-Only

From: FOI
Sent: Wednesday, 6 September 2017 4:16 PM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@BORDER.GOV.AU>
Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@border.gov.au>; s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@border.gov.au>
Subject: FOI Request FA 17/08/00642 - HIRSCH - Draft Decision [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

Please see attached a draft decision for this FOI request.

Grateful for your review of the content and if you have any input please advise by **COB Tuesday 11 September 2017**.

If you are happy with the content then please date and sign the record, via return email by **COB Tuesday 11 September 2017.**

Happy to discuss.

with regards,

s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section

Freedom of Information, Privacy & Records Management Branch

Corporate Services Division | Corporate Group

Department of Immigration and Border Protection

T: s. 22(1)(a)(ii)

E: s. 22(1)(a)(ii) border.gov.au

E: xxx@xxxxxx.xxx.xx

For-Official-Use-Only

From: FOI
To: s. 22(1)(a)(ii) s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii) s. 22(1)(a)(ii) s. 22(1)(a)(ii)
Subject: RE: FOI Request FA 17/08/00642 - HIRSCH - Draft Decision [DLM=For-Official-Use-Only]
Date: Wednesday, 13 September 2017 9:04:00 AM

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

Thanks for your email.

There are actually 2 documents that have been captured by the request. It's just that they are combined together. The first document is the letter from s. 22(1)(a)(ii) with Schedule A as an attachment (pages 2-6). The second document is the letter from s. 47F(1) (page 1).

Happy to discuss.

with regards,

s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section
 Freedom of Information, Privacy & Records Management Branch
 Corporate Services Division | Corporate Group
 Department of Immigration and Border Protection

T: s. 22(1)(a)(ii)

E: s. 22(1)(a)(ii) [border.gov.au](mailto:s.22(1)(a)(ii)@border.gov.au)

E: xxx@xxxxxx.xxx.xx

From: s. 22(1)(a)(ii)
Sent: Tuesday, 12 September 2017 4:13 PM
To: FOI <xxx@xxxxxx.xxx.xx>; s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@BORDER.GOV.AU>
Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@border.gov.au>; s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@border.gov.au>; s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@BORDER.GOV.AU>
Subject: RE: FOI Request FA 17/08/00642 - HIRSCH - Draft Decision [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

We are unable to proceed with this one at the moment.

We supplied FOI with one document that falls under the scope of this request, however the decision record states two documents have been identified. As no documents were attached to the decision letter, we are unable to determine if we support this decision record until we are

aware of the second document.

Kind regards

s. 22(1)(a)(ii)

Policy Officer, Indonesia and Timor-Leste Desk
Asia Branch | International Division
Policy Group
Department of Immigration and Border Protection
Telephone: s. 22(1)(a)(ii)
Email: s. 22(1)(a)(ii) [border.gov.au](mailto:s.22(1)(a)(ii)@border.gov.au)

For-Official-Use-Only

For-Official-Use-Only

From: FOI

Sent: Wednesday, 6 September 2017 4:16 PM

To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@BORDER.GOV.AU>

Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@border.gov.au>; s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@border.gov.au>

Subject: FOI Request FA 17/08/00642 - HIRSCH - Draft Decision [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

Please see attached a draft decision for this FOI request.

Grateful for your review of the content and if you have any input please advise by **COB Tuesday 11 September 2017**.

If you are happy with the content then please date and sign the record, via return email by **COB Tuesday 11 September 2017**.

Happy to discuss.

with regards,

s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section
Freedom of Information, Privacy & Records Management Branch
Corporate Services Division | Corporate Group

Department of Immigration and Border Protection

T: s. 22(1)(a)(ii)

E: s. 22(1)(a)(ii) [border.gov.au](mailto:s.22(1)(a)(ii)@border.gov.au)

E: xxx@xxxxxx.xxx.xx

For-Official-Use-Only

From: s. 22(1)(a)(ii)
To: FOI
Cc: s. 22(1)(a)(ii) s. 22(1)(a)(ii) s. 47E(d) s. 22(1)(a)(ii) s. 22(1)(a)(ii)
Subject: FOI Decision Records - FA 17/08/00642, FA 17/08/01064, FA 17/06/00884 [SEC=UNCLASSIFIED]
Date: Wednesday, 13 September 2017 4:00:19 PM
Attachments: [FA 00884 - Decision Record.pdf](#)
[FA 01064 - Decision REcord.pdf](#)
[FA 00642 - Decision Record.pdf](#)

UNCLASSIFIED

Hi FOI

Please find attached three (3) signed decision records for the following requests:

FA 17/08/00642

FA 17/08/01064

FA 17/06/00884

Kind regards

s. 22(1)(a)(ii)

Policy Officer, Indonesia and Timor-Leste Desk

Asia Branch | International Division

Policy Group

Department of Immigration and Border Protection

Telephone: s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii) border.gov.au

UNCLASSIFIED

From: [Media Operations](#)
To: [FOI](#)
Cc: [Media Operations](#)
Subject: RE: FOI Decision Records - FA 17/08/00642, FA 17/08/01064, FA 17/06/00884 [SEC=UNCLASSIFIED]
Date: Wednesday, 13 September 2017 5:16:46 PM

Hi s. 22(1)(a)(ii)

No TPs required.

Thanks

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Media Operations

Executive Division | Corporate Group

Department of Immigration and Border Protection

P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)

24-hour media line: 02 6264 2244 | E: xxxxx@xxxxxx.xxx.xx

From: FOI [mailto:xxx@xxxxxx.xxx.xx]
Sent: Wednesday, 13 September 2017 4:23 PM
To: Media Operations
Subject: FW: FOI Decision Records - FA 17/08/00642, FA 17/08/01064, FA 17/06/00884 [SEC=UNCLASSIFIED]

UNCLASSIFIED

Hi Media,

Please see attached 3x decisions to be sent to Mr Asher Hirsch of Refugee Council of Australia (via Right to Know) . All of these decisions are exempting the documents that have fallen in scope in full.

Could you please advise if you believe TPs may be required.

We are hoping to send the alert out to SES tomorrow. But are able to do so without the need to have TPs finalised if you feel that they are required. The decisions will be sent to the applicant 3 days after the alert is sent (it is anticipated they will be sent to the applicant on Tuesday 19 September 2017.)

Happy to discuss.

with regards,

s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section

Freedom of Information, Privacy & Records Management Branch

Corporate Services Division | Corporate Group

Department of Immigration and Border Protection

T: s. 22(1)(a)(ii)

E: s. 22(1)(a)(ii) [border.gov.au](mailto:xxx@xxxxxx.xxx.xx)

E: xxx@xxxxxx.xxx.xx

From: s. 22(1)(a)(ii)

Sent: Wednesday, 13 September 2017 4:00 PM

To: FOI <xxx@xxxxxx.xxx.xx>

Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii) [border.gov.au](mailto:xxx@xxxxxx.xxx.xx)>; s. 22(1)(a)(ii)

<s. 22(1)(a)(ii) [BORDER.GOV.AU](mailto:xxx@xxxxxx.xxx.xx)>; s. 47E(d)

<s. 47E(d) [border.gov.au](mailto:xxx@xxxxxx.xxx.xx)>; s. 22(1)(a)(ii) <s. 22(1)(a)(ii) [border.gov.au](mailto:xxx@xxxxxx.xxx.xx)>; s. 22(1)(a)(ii)

<s. 22(1)(a)(ii) [BORDER.GOV.AU](mailto:xxx@xxxxxx.xxx.xx)>

Subject: FOI Decision Records - FA 17/08/00642, FA 17/08/01064, FA 17/06/00884

[SEC=UNCLASSIFIED]

UNCLASSIFIED

Hi FOI

Please find attached three (3) signed decision records for the following requests:

FA 17/08/00642

FA 17/08/01064

FA 17/06/00884

Kind regards

s. 22(1)(a)(ii)

Policy Officer, Indonesia and Timor-Leste Desk

Asia Branch | International Division

Policy Group

Department of Immigration and Border Protection

Telephone: s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii) [border.gov.au](mailto:xxx@xxxxxx.xxx.xx)

UNCLASSIFIED

UNCLASSIFIED

From: [FOI](#)
To: [Portfolio Media](#)
Subject: FW: FOI Decision Records - FA 17/08/00642, FA 17/08/01064, FA 17/06/00884 [SEC=UNCLASSIFIED]
Date: Wednesday, 13 September 2017 4:23:00 PM
Attachments: [FA 00884 - Decision Record.pdf](#)
[FA 01064 - Decision REcord.pdf](#)
[FA 00642 - Decision Record.pdf](#)

UNCLASSIFIED

Hi Media,

Please see attached 3x decisions to be sent to Mr Asher Hirsch of Refugee Council of Australia (via Right to Know) . All of these decisions are exempting the documents that have fallen in scope in full.

Could you please advise if you believe TP's may be required.

We are hoping to send the alert out to SES tomorrow. But are able to do so without the need to have TP's finalised if you feel that they are required. The decisions will be sent to the applicant 3 days after the alert is sent (it is anticipated they will be sent to the applicant on Tuesday 19 September 2017.)

Happy to discuss.

with regards,

s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section
 Freedom of Information, Privacy & Records Management Branch
 Corporate Services Division | Corporate Group
 Department of Immigration and Border Protection

T: s. 22(1)(a)(ii)

E: s. 22(1)(a)(ii) [border.gov.au](mailto:xxx@xxxxxx.xxx.xx)

E: xxx@xxxxxx.xxx.xx

From: s. 22(1)(a)(ii)

Sent: Wednesday, 13 September 2017 4:00 PM

To: FOI <xxx@xxxxxx.xxx.xx>

Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii) [border.gov.au](mailto:xxx@xxxxxx.xxx.xx)>; s. 22(1)(a)(ii)

<s. 22(1)(a)(ii) [BORDER.GOV.AU](mailto:xxx@xxxxxx.xxx.xx)>; s. 47E(d)

<s. 47E(d) [border.gov.au](mailto:xxx@xxxxxx.xxx.xx)>; s. 22(1)(a)(ii) <s. 22(1)(a)(ii) [border.gov.au](mailto:xxx@xxxxxx.xxx.xx)>; s. 22(1)(a)(ii)

<s. 22(1)(a)(ii) [BORDER.GOV.AU](mailto:xxx@xxxxxx.xxx.xx)>

Subject: FOI Decision Records - FA 17/08/00642, FA 17/08/01064, FA 17/06/00884
 [SEC=UNCLASSIFIED]

UNCLASSIFIED

Released by Department of Home Affairs
under the Freedom of Information Act 1982

Hi FOI

Please find attached three (3) signed decision records for the following requests:

FA 17/08/00642

FA 17/08/01064

FA 17/06/00884

Kind regards

s. 22(1)(a)(ii)

Policy Officer, Indonesia and Timor-Leste Desk

Asia Branch | International Division

Policy Group

Department of Immigration and Border Protection

Telephone: s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii) [border.gov.au](mailto:s.22(1)(a)(ii)@border.gov.au)

UNCLASSIFIED

UNCLASSIFIED

From: FOI
To: Vidoshi JANA
Cc: Jenet CONNELL; Ben WRIGHT; Shannon FRAZER; Brett MARSHALL; Pip DE VEAU; s. 22(1)(a)(ii)
 s. 22(1)(a) Media Operations; s. 22(1)(a)(ii)
 s. 22(1) OJO; s. 22(1)(a)(ii); Robert MCGREGOR; Lachlan
 (b) QUHOUN; Linda GEDDES; Steven GROVES
Bcc: s. 22(1)(a)(ii)
Subject: HPRM: FOI Alert - Pending FOI decision - Asher HIRSCH (Refugee Council of Australia) - FA 17/08/00642
 [DLM=For-Official-Use-Only]
Date: Thursday, 14 September 2017 4:11:00 PM

For-Official-Use-Only

Our references: SCR; FA 17/08/00642; ADF2017/87711

SUBJECT: FREEDOM OF INFORMATION (FOI) REQUEST – DECISION ON ACCESS – ASHER HIRSCH (REFUGEE COUNCIL OF AUSTRALIA)

Good afternoon

The purpose of this email is to inform you that the decision, under the *Freedom of Information Act 1982* (FOI Act), on access to documents regarding correspondence between Australia and Indonesia and/or IOM, regarding the establishment of the Regional Cooperation Agreement, will be dispatched to the applicant on **Tuesday, 19 September 2017**.

Request

On 12 August 2017, Asher Hirsch, Refugee Council of Australia, requested access under the FOI Act to the following documents:

Correspondence between Australia and Indonesia, and between Australia and the International Organization for Migration (IOM), regarding the establishment of the Regional Cooperation Agreement (RCA). Correspondence may include letters, emails, phone call logs or transcripts or any other form of communication. Please limit this request to correspondence in 2000 and 2001.

Documents captured by the request

There were two documents captured by the FOI request. In summary, the documents were an exchange of letters between the Department and the International Organization for Migration (IOM) to establish the Regional Cooperation Agreement (RCA).

Decision

s. 22(1)(a)(ii) Director, South East Asia Section, International Division, was the authorised decision-maker under the FOI Act. s. 22(1)(a)(ii) has decided to exempt the documents in full the documents on the grounds that the deleted material is considered to be exempt under subsections:

- s33(a)(iii) Documents affecting international relations
- s47(1)(b) Documents disclosing commercially valuable information

Talking points

Media Operations has advised that Talking Points are not required in relation to this decision.

Publication of the documents authorised for release

As no documents are being released, this decision will not be placed on the Department's FOI Disclosure Log.

If you have any questions in relation to the FOI processes please do not hesitate to contact me.

Regards

s. 22(1)(a)(ii)

Acting Director, Freedom of Information Section
 Freedom of Information, Privacy & Records Management Branch
 Corporate Services Division / Corporate Group
 Department of Immigration and Border Protection

P: s. 22(1)(a)(ii) ; E: xxx@xxxxxx.xxx.xx

For-Official-Use-Only

From: [FOI Reviews mailbox](#)
To: s. 22(1)(a)(ii) s. 22(1)(a)
Subject: FOI internal review request FA 17/08/00642-R1 - Asher HIRSCH [DLM=For-Official-Use-Only]
Date: Tuesday, 8 May 2018 6:23:00 PM
Attachments: [FA 170800642 - Decision letter - documents exempt in full.pdf](#)
[Request for internal review - FA 170800642..msg](#)
s. 22(1)(a)(ii)
[FA 17 07 00010 - Documents released.pdf](#)

For-Official-Use-Only

Dear s. 22(1)(a)(ii)

I am the case officer for the FOI internal review request FA 17/08/00642-R1. You may remember that as part of the primary decision on this request you provided the documents in scope and the advice about the documents contained in your email below. The decision maker s. 22(1)(a)(ii) made the decision to refuse access to the documents requested under sections 33(a)(iii) and 47 of the FOI Act. The FOI applicant has now applied for internal review of that decision. The review decision will be made by a decision maker at EL2 level or higher.

I have attached the original decision on the request (**attachment 1**) and the FOI applicant's request for internal review (**attachment 2**).

Background

The FOI applicant sought access to:

'Correspondence between Australia and Indonesia, and between Australia and the International Organisation for Migration (IOM), regarding the establishment of the Regional Cooperation Agreement (RCA). Correspondence may include letters, emails, phone call logs or transcripts or any other form of communication. Please limit this request to correspondence in 2000 and 2001.'

Issues

I have made a preliminary assessment of the documents within scope (**attachment 3**) and s. 47C(1)

s. 47C(1). My comments on this material are as follows:

s. 47C(1)

- IOM and departmental addresses and logos are all in the public domain.
- The existence of an RCA between Australia and the IOM, and that it was signed in 2000 is also in the public domain, see page 1 of <https://www.iom.int/files/live/sites/iom/files/Country/docs/IOM-Indonesia-Newsletter-for-January-2014.pdf>

s. 47C(1)

s. 47C(1)

- It is also in the public domain that:
 - From 2000 onwards, Australia, the government of Indonesia and IOM were working together in Indonesia to combat people trafficking & irregular migration, see: <https://www.iom.int/news/un-migration-agency-facilitates-release-refugees-indonesian-detention-centres-0> .
 - Australia funds IOM to provide certain services including food, shelter, reception, Assisted Voluntary returns – see documents that were previously released for another FOI request FA 17/07/00010 (see **attachment 4**)
 - IOM refers migrants making protection claims to UNHCR (see **attachment 4**)
 - Certain other services are also provided by IOM staff, see this article: <http://www.refworld.org/docid/3c58099a1.html> particularly the “IOM plays lead role” section.

s. 47C(1), s. 33(a)(iii)

What I need from you

1. Please review the attached document at **attachment 3** and provide comments about the harm that would result from release of these sections. If you still wish to claim that the material is exempt, you may wish to provide further information in support of the existing exemptions that address the points I have raised above and the claims made by the FOI applicant in his review request.
2. The documents within the scope of the request constitute correspondence between the government of Australia and the IOM regarding the establishment of the RCA. None of the documents are correspondence between the governments of Australia and Indonesia about the RCA, documents about which were also specifically requested by the applicant and discussed in his review request. Can you confirm whether:
 - a. any documents exist in the Department’s possession that are correspondence between the governments of Australia and Indonesia about the establishment of the RCA? (I note that DFAT, which originally received the request, has advised that it does not hold any relevant documents.)
 - b. the steps you took to search for any relevant documents.
3. Please confirm whether **s. 22(1)(a)(ii)** agrees to be the authorised decision maker for this request. The alternative option is that **s. 22(1)(a)(ii)** (Acting Director, FOI) makes the decision.

As this request is already outside statutory timeframes, and you are also assisting us with a related internal review FA 17/08/00884-R1, we would appreciate a response to the above points by **Friday 25 May 2018**.

Regards,

s. 22(1)(a)(ii)

FOI Officer, Reviews Team

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii) [homeaffairs.gov.au](mailto:s.22(1)(a)(ii)@homeaffairs.gov.au)

For-Official-Use-Only

From: s. 22(1)(a)(ii)

Sent: 21 August 2017 9:27 AM

To: FOI <xxx@xxxxxx.xxx.xx>

Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@border.gov.au>; s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@border.gov.au>; Robert MCGREGOR <s. 22(1)(a)(ii)@BORDER.GOV.AU>; s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@BORDER.GOV.AU>

Subject: RE: New FOI Request – Seeking documents – Asher HIRSCH - FA 17/08/00642

[DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi FOI

Please find attached the 'exchange of letters' between the Australian government and IOM which established the RCA. As per our response to similar request FA 17/06/00830 (attached), the rationale behind not releasing the document is the same:

Please see attached the original "exchange of letters" between DIBP (then DIMA) and IOM in 2000.

Please note there is a risk that the release of these documents could cause potential harm to the bilateral relationship with Indonesia, and Australia's national security, and an exemption should be considered based on these concerns.

Additionally, there are potential commercial concerns for IOM (a key service provider for the department on a large number of projects) should this document be released.

Happy to discuss further once your initial analysis is complete.

Kind regards

s. 22(1)(a)(ii)

Policy Officer, Indonesia and Timor-Leste Desk

Asia Branch | International Division

Policy Group

Department of Immigration and Border Protection

Released by Department of Home Affairs
under the Freedom of Information Act 1982

Telephone: s. 22(1)(a)(ii)
Email: s. 22(1)(a)(ii) [border.gov.au](mailto:s.22(1)(a)(ii)@border.gov.au)

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: Monday, 21 August 2017 8:34 AM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@border.gov.au>
Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@border.gov.au>
Subject: FW: New FOI Request – Seeking documents – Asher HIRSCH - FA 17/08/00642
[DLM=For-Official-Use-Only]

Hi s. 22(1)(a)(ii)

Another FOI for your action.

Many thanks,

s. 22(1)(a)(ii)

Sent with Good (www.good.com)

-----Original Message-----

From: FOI
Sent: Monday, August 21, 2017 08:02 AM AUS Eastern Standard Time
To: s. 22(1)(a)(ii)
Subject: New FOI Request – Seeking documents – Asher HIRSCH - FA 17/08/00642
[DLM=For-Official-Use-Only]

For-Official-Use-Only

Our references: SCR; FA 17/08/00642; ADF2017/87711

Good morning

For Action by Monday 28 August 2017

On 12 August 2017, the Department of Foreign Affairs and Trade received an FOI request from Asher HIRSCH, seeking access to:

‘Correspondence between Australia and Indonesia, and between Australia and the International Organisation for Migration (IOM), regarding the establishment of the Regional Cooperation Agreement (RCA). Correspondence may include letters, emails, phone call logs or transcripts or any other form of communication. Please limit this request to correspondence in 2000 and 2001.’

On 17 August 2017, the Department of Immigration and Border Protection agreed to

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under the Freedom of Information Act 1982

accept transfer of this request under section 16(1)(b) of the FOI Act.

Your Division has been identified as holding documents that fall within the scope of this request, and we have discussed the request with s. 22(1)(a)(ii) of the Indonesia and Timor-Leste Desk. Could you please assign this request to the relevant business area for action.

If you consider that other business areas within the Department also hold documents that would be relevant to this request, could you please advise us as soon as possible.

Action required:

Documents identified:

- If the number of documents falling within the scope of the request is particularly large (i.e. over 300 pages), please let us know the approximate size of the request as soon as possible so that we can narrow/negotiate the size of the request with the applicant. i.e. please include a document count and the average number of pages; the types of documents captured would also be of assistance.
- Please forward any documents that fall within the scope of this request to foi@border.gov.au by **COB Monday 28 August 2017**.
- If there are any problems with meeting this deadline please advise me **as soon as possible**.
- Documents will be reviewed by the FOI Section and possible exemptions considered in consultation with the nominated decision maker. Please note that no information will be released to the FOI applicant without further consultation with you.
- When providing documents to FOI please advise us of any high level concerns; sensitivities; or any harm that would be caused, should the documents/specific information be released. i.e. harm to international relations. This information will be taken into consideration during the processing of the request.

No documents identified:

- If your area does not have any documents within the scope of this request, please let us know **as soon as possible**.

Assistance

Please find attached a checklist designed to assist your area in identifying documents and how to respond to the FOI Section. The advice provided in this checklist will assist in the processing of this FOI request.

The FOI Section is available to provide advice and assistance throughout this matter. If you have questions or require more information please do not hesitate to contact me on the details below.

Thank you for your assistance with processing this request.

Regards

With kind regards

s. 22(1)(a)(ii)

Acting Assistant Director, Freedom of Information Section
FOI, Privacy and Records Management Branch
Corporate Division
Department of Immigration and Border Protection

E: foi@border.gov.au

For-Official-Use-Only

Released by Department of Home Affairs
under the *Freedom of Information Act 1982*

From: s. 22(1)(a)(ii)
To: [FOI Reviews mailbox](#)
Cc: s. 22(1)(a)(ii) s. 22(1)(a)(ii)
Subject: RE: FOI internal review request FA 17/08/00642-R1 - Asher HIRSCH [DLM=For-Official-Use-Only]
Date: Saturday, 12 May 2018 12:33:24 PM

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

I have consulted with Assistant Secretary Asia, Robert McGregor, who is a qualified FOI decision maker (he undertook training with the Department of Defence).

And we advise as follows:

1. The conditions and arrangement under the original exchange of letters remains active.
2. The assessment made by the previous decision maker (s. 22(1)(a)(ii)) in relation to Section 33 (a) (iii) and Section 47 of the FOI Act remain entirely valid in our assessment, and we maintain that the release of these documents could be expected to cause harm to Australia's bilateral relations with Indonesia, s. 47C(1).
3. It is our understanding that searches have already been conducted for documents between the Governments of Australia and Indonesia regarding the establishment of the RCA and further relevant documents have not been found.

Kind regards,

s. 22(1)(a)(ii)

s. 22(1)(a)(ii) Director South East Asia and ASEAN, Home Affairs
 s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI Reviews mailbox
Sent: Tuesday, May 8, 2018 6:24 PM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii) @HOMEAFFAIRS.GOV.AU>; s. 22(1)(a)(ii) s. 22(1)(a)(ii) @HOMEAFFAIRS.GOV.AU>
Subject: FOI internal review request FA 17/08/00642-R1 - Asher HIRSCH [DLM=For-Official-Use-Only]

For-Official-Use-Only

Dear s. 22(1)(a)(ii)

I am the case officer for the FOI internal review request FA 17/08/00642-R1. You may remember that as part of the primary decision on this request you provided the documents in scope and the advice about the documents contained in your email below. The decision maker s. 22(1)(a)(ii)

s. 22(1)(a)(ii) made the decision to refuse access to the documents requested under sections 33(a) (iii) and 47 of the FOI Act. The FOI applicant has now applied for internal review of that decision. The review decision will be made by a decision maker at EL2 level or higher.

I have attached the original decision on the request (**attachment 1**) and the FOI applicant's request for internal review (**attachment 2**).

Background

The FOI applicant sought access to:

'Correspondence between Australia and Indonesia, and between Australia and the International Organisation for Migration (IOM), regarding the establishment of the Regional Cooperation Agreement (RCA). Correspondence may include letters, emails, phone call logs or transcripts or any other form of communication. Please limit this request to correspondence in 2000 and 2001.'

Issues

I have made a preliminary assessment of the documents within scope (**attachment 3**) and s. 47C(1)

s. 47C(1) . My comments on this material are as follows:

s. 47C(1)

- IOM and departmental addresses and logos are all in the public domain.
- The existence of an RCA between Australia and the IOM, and that it was signed in 2000 is also in the public domain, see page 1 of <https://www.iom.int/files/live/sites/iom/files/Country/docs/IOM-Indonesia-Newsletter-for-January-2014.pdf>

s. 47C(1)

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 - Certain other services are also provided by IOM staff, see this article: <http://www.refworld.org/docid/3c58099a1.html> particularly the "IOM plays lead role" section.

What I need from you

1. Please review the attached document at **attachment 3** and provide comments about the harm that would result from release of these sections. If you still wish to claim that the material is exempt, you may wish to provide further information in support of the existing exemptions that address the points I have raised above and the claims made by the FOI applicant in his review request.
2. The documents within the scope of the request constitute correspondence between the government of Australia and the IOM regarding the establishment of the RCA. None of the documents are correspondence between the governments of Australia and Indonesia about the RCA, documents about which were also specifically requested by the applicant and discussed in his review request. Can you confirm whether:
 - a. any documents exist in the Department's possession that are correspondence between the governments of Australia and Indonesia about the establishment of the RCA? (I note that DFAT, which originally received the request, has advised that it does not hold any relevant documents.)
 - b. the steps you took to search for any relevant documents.
3. Please confirm whether s. 22(1)(a)(ii) agrees to be the authorised decision maker for this request. The alternative option is that s. 22(1)(a)(ii) (Acting Director, FOI) makes the decision.

As this request is already outside statutory timeframes, and you are also assisting us with a related internal review FA 17/08/00884-R1, we would appreciate a response to the above points by **Friday 25 May 2018**.

Regards,

s. 22(1)(a)(ii)

FOI Officer, Reviews Team

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii) [homeaffairs.gov.au](mailto:s.22(1)(a)(ii)@homeaffairs.gov.au)

For-Official-Use-Only

From: s. 22(1)(a)(ii)

Sent: 21 August 2017 9:27 AM

To: FOI <xxx@xxxxxx.xxx.xx>

Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii) border.gov.au>; s. 22(1)(a)(ii) <s. 22(1)(a)(ii) border.gov.au>; Robert MCGREGOR <s. 22(1)(a)(ii) BORDER.GOV.AU>; s. 22(1)(a)(ii) <s. 22(1)(a)(ii) BORDER.GOV.AU>

Subject: RE: New FOI Request – Seeking documents – Asher HIRSCH - FA 17/08/00642
[DLM=For-Official-Use-Only]

For-Official-Use-Only

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Please note there is a risk that the release of these documents could cause potential harm to the bilateral relationship with Indonesia, and Australia's national security, and an exemption should be considered based on these concerns.

Additionally, there are potential commercial concerns for IOM (a key service provider for the department on a large number of projects) should this document be released.

Happy to discuss further once your initial analysis is complete.

Kind regards

s. 22(1)(a)(ii)

Policy Officer, Indonesia and Timor-Leste Desk
Asia Branch | International Division
Policy Group
Department of Immigration and Border Protection
Telephone: s. 22(1)(a)(ii)
Email: s. 22(1)(a)(ii) border.gov.au

For-Official-Use-Only

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To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii) border.gov.au>

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Subject: FW: New FOI Request – Seeking documents – Asher HIRSCH - FA 17/08/00642
[DLM=For-Official-Use-Only]

Hi s. 22(1)(a)(ii)

Released by Department of Home Affairs
under the Freedom of Information Act 1982

Another FOI for your action.

Many thanks,

s. 22(1)(a)(ii)

Sent with Good (www.good.com)

-----Original Message-----

From: FOI

Sent: Monday, August 21, 2017 08:02 AM AUS Eastern Standard Time

To: s. 22(1)(a)(ii)

Subject: New FOI Request – Seeking documents – Asher HIRSCH - FA 17/08/00642
[DLM=For-Official-Use-Only]

For-Official-Use-Only

Our references: SCR; FA 17/08/00642; ADF2017/87711

Good morning

For Action by Monday 28 August 2017

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On 17 August 2017, the Department of Immigration and Border Protection agreed to accept transfer of this request under section 16(1)(b) of the FOI Act.

Your Division has been identified as holding documents that fall within the scope of this request, and we have discussed the request with s. 22(1)(a)(ii) of the Indonesia and Timor-Leste Desk. Could you please assign this request to the relevant business area for action.

If you consider that other business areas within the Department also hold documents that would be relevant to this request, could you please advise us as soon as possible.

Action required:

Documents identified:

- If the number of documents falling within the scope of the request is particularly large (i.e. over 300 pages), please let us know the approximate size of the request as soon as possible so that we can narrow/negotiate the size of the request with the applicant. i.e. please include a document count and the average number of pages; the types of documents captured would also be of assistance.

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Assistance

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The FOI Section is available to provide advice and assistance throughout this matter. If you have questions or require more information please do not hesitate to contact me on the details below.

Thank you for your assistance with processing this request.

Regards

With kind regards

s. 22(1)(a)(ii)

Acting Assistant Director, Freedom of Information Section
FOI, Privacy and Records Management Branch
Corporate Division
Department of Immigration and Border Protection

E: foi@border.gov.au

For-Official-Use-Only

From: [FOI Reviews mailbox](#)
To: s. 22(1)(a)
Cc: s. 22(1)(a)(ii) s. 22(1)(a)(ii)
Subject: RE: FOI internal review request FA 17/08/00642-R1 - Asher HIRSCH [DLM=For-Official-Use-Only]
Date: Thursday, 17 May 2018 5:59:00 PM

For-Official-Use-Only

Dear s. 22(1)(a)(ii)

Thank you for providing your response on the documents. Based on your response I am now drafting a decision letter for the signature of the decision maker (who is likely to be either you or the Director of FOI) in which the Department upholds its original refusal decision – however we will also be adding a section 24A refusal decision in relation to the Department’s inability to locate correspondence between the governments of Australia and Indonesia.

I therefore need your assistance on the additional reasoning we will need to provide in the decision, which ideally will be different from the wording used in the original decision. Because there are two exemptions being used – s. 33(a)(iii) and s. 47(1)(b) – we need to provide reasoning for each exemption.

Section 33(a)(iii)

Below I have made a start on the reasoning to use for s. 33(a)(iii) – I am in particular looking for more information about how Australia’s bilateral relationship with the Indonesian government would be harmed by release, and how the operations of the IOM in Indonesia (and ultimately the IOM’s relationship with Australia) would be affected by disclosure. You may also wish to propose changes or additional arguments to strengthen the Department’s reasoning for applying this exemption.

Section 33(a)(iii) of the FOI Act permits exemption of a document if disclosure of the document would, or could reasonably be expected to cause damage to the international relations of the Commonwealth.

International relations with the government of Indonesia

I have considered your claims that disclosure would not impact international relations since the government of Indonesia is a party to the agreement and would be aware of its terms. While I consider it likely that the government of Indonesia would be aware of the terms of the RCA, it is not a signatory to the agreement, which is between the IOM and the government of Australia.

Nevertheless, I maintain that disclosure of the documents would or could reasonably be expected to cause damage to the relationship between the governments of Australia and Indonesia. I have formed this opinion because the documents provide an insight into the methods used by the governments of Indonesia and Australia in combating people trafficking and irregular migration through Indonesia, as well as the overall strategy on this issue adopted by both countries.

The disclosure of certain information in the schedule and in the letters between the Department and the IOM would also reveal the details of negotiations between the governments of Australia and Indonesia.

I am of the opinion that the government of Indonesia would be less willing to cooperate with the Australian government in the future if the information were released. I have formed that opinion considering the nature of the bilateral relationship between Australia and Indonesia and the status of Indonesia as a regional partner of Australia. The maintenance of the relationship between the two countries depends on an atmosphere of trust. That trust would be diminished if the government of Australia publicly disclosed information about the operations of the government of Indonesia and about the details of confidential negotiations between the two countries.

I have formed this opinion despite the age of the documents, since the two governments continue to work together to combat people trafficking and irregular migration through Indonesia, the methods described in the schedule for the provision of services are still in use today and the capacity of the two governments to work together and share information would still be adversely affected if details of their negotiations were publicly disclosed.

International relations with the International Organization of Migration

I am also of the opinion that disclosure would or could reasonably be expected to cause damage to the relationship between the government of Australia and the IOM. As stated in section 5.36 of the Information Commissioner guidelines, the phrase 'international relations' refers to the ability of the Australian government to maintain good working relations with international organisations, as well as with other governments. The IOM is an international organisation to which the *International Organisations (Privileges and Immunities) Act 1963* applies and is also a related organisation of the United Nations.

I am of the opinion that disclosure of the documents would reveal information that was shared between the IOM and the government of Australia in the expectation that it would be handled in a confidential manner. The documents include correspondence between senior officers of the Department and the IOM that refers to high-level negotiations between the two parties, negotiations that would have been conducted in confidence. The ability of the two organisations to communicate freely with each other in future and make decisions would be compromised if their respective officers believed that the details of their discussions would be publicly disclosed.

The other document is a schedule for the provision of services, which contains details of the contractual arrangements between the IOM and the government of Australia, the details of which are also of commercial value to the IOM.

While certain information in the documents – such as the names of officers and information confirming the existence of an agreement between the two organisations – is in the public domain, I remain of the opinion that the disclosure of the documents in their entirety would have a sufficiently adverse effect to warrant non-disclosure. In particular, the information in the schedule for the provision of services reveals details of the duties to be performed by the IOM in Indonesia, and of payments and reporting requirements that are more specific and detailed than the information already in the public domain. The documents refer to activities in Indonesia that are still ongoing, and as such the age of the documents does not reduce the impact of disclosure.

The disclosure of these documents in their entirety would, in my opinion, damage the relationship between the IOM and the government of Australia and reduce the

capacity of the two parties to work together in the region. I have formed the opinion taking into account the significant role the IOM plays in multilateral regional cooperative efforts against people smuggling, as well as in providing services to migrants in Australia and in regional processing countries.

As such I have decided that the information in the documents indicated in the Schedule at Attachment A remains exempt from disclosure under section 33(a)(iii) of the FOI Act.

Section 47

Below is the proposed reasoning for s. 47(1)(b). Again – you may wish to propose changes or additional arguments to strengthen the Department's reasoning for applying this exemption.

Section 47 provides that a document is an exempt document if its disclosure under this Act would disclose any information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed.

In determining whether the information within the documents is commercially valuable, I have had regard to the following factors:

- whether the information is known only to the person for whom it has value or, if it is known to others, to what extent that detracts from its intrinsic commercial value
- whether the information confers a competitive advantage on the person to whom it relates – for example, if it lowers the cost of production or allows access to markets not available to competitors
- whether a genuine "arm's-length" buyer would be prepared to pay to obtain that information
- whether the information is still current or out of date (noting that out of date information may no longer have any value)
- whether disclosing the information would reduce the value of a business operation or commercial activity, reflected perhaps in a lower share price.

I have decided:

- that the information contained in the schedule for the provision of services is commercially valuable and therefore that I affirm the original decision that these documents are exempt under section 47(1)(b)
- that the correspondence between the IOM and the Department does not contain commercially valuable information and section 47(1)(b) does not apply to these documents.

I have considered your claims that the information in the documents is not of commercial value or that the value would not be diminished or destroyed if released.

I have decided to affirm the Department's decision that the information in the schedule for the provision of services is commercially valuable because the information relates to services the Australian government funds the IOM to perform in Indonesia. In particular, the information in the documents provides an indication of the services the IOM currently provides under the terms of the agreement, the specific ways in which the IOM performs the services and the financial terms of the contract, including the funds the IOM is authorised to spend on each client.

I also consider that disclosure of the information confers a competitive advantage on the IOM, since the information relates to services currently provided only by the IOM in response to the specific needs of the governments of Australia and Indonesia. Disclosure of the material would allow potential competitors to enter the market, and I am of the opinion that an 'arms-length' competitor would be prepared to pay for such information, given the total commercial value of the services provided. Allowing competitors to enter the market would diminish the capacity for the IOM to carry out the activity on a profitable or viable basis in future, since – once the information was publicly disclosed – potential competitors would be able to propose ways in which to provide the same services at a reduced cost, which in turn would force the IOM to compete with any reduced terms.

The information is also only known to a small number of individuals who are employed by the IOM, the Department and the government of Indonesia and who have a particular involvement in the services provided by the IOM in Indonesia. In my opinion, the fact that people employed by organisations other than the IOM are already aware of the terms of the schedule does not reduce the intrinsic commercial value of the information, since only a limited number of people within the governments of Australia and Indonesia would have access to the information, and both governments would allow access to the information on a 'needs to know' basis only.

Finally, while the information is not recent, given that the RCA dates from 2000, I understand that the agreement between the two parties is ongoing, and therefore that the information described in the schedule is current and still of commercial value.

I have therefore decided that schedule for the provision of services is exempt from disclosure under section 47 of the FOI Act.

Section 24A

You advised that searches had already been conducted for documents between the Governments of Australia and Indonesia regarding the establishment of the RCA and further relevant documents have not been found.

In order to complete the reasoning wording for this part of the decision, **please advise of the steps your business area took to locate the documents (for example consultation with relevant officers, checks of local drives).**

Response required

Could you please respond to this email by **cob Friday 25 May** and:

- provide your comments on the above wording, including details of the searches conducted for relevant documents relating to communications between the governments of Australia and Indonesia

- advise who will be the authorised decision maker for this review decision.

Regards,

s. 22(1)(a)(ii)

FOI Officer, Reviews Team

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii) [homeaffairs.gov.au](mailto:s.22(1)(a)(ii)@homeaffairs.gov.au)

For-Official-Use-Only

From: s. 22(1)(a)(ii)

Sent: 12 May 2018 12:33 PM

To: FOI Reviews mailbox <xxx.xxxxxxx@xxxxxxxxxxxxx.xxx.xx>

Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@HOMEAFFAIRS.GOV.AU>; s. 22(1)(a)(ii)

<s. 22(1)(a)(ii)@HOMEAFFAIRS.GOV.AU>

Subject: RE: FOI internal review request FA 17/08/00642-R1 - Asher HIRSCH [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

I have consulted with Assistant Secretary Asia, Robert McGregor, who is a qualified FOI decision maker (he undertook training with the Department of Defence).

And we advise as follows:

1. The conditions and arrangement under the original exchange of letters remains active.
2. The assessment made by the previous decision maker s. 22(1)(a)(ii) in relation to Section 33 (a) (iii) and Section 47 of the FOI Act remain entirely valid in our assessment, and we maintain that the release of these documents could be expected to cause harm to Australia's bilateral relations with Indonesia, s. 47C(1)
3. It is our understanding that searches have already been conducted for documents between the Governments of Australia and Indonesia regarding the establishment of the RCA and further relevant documents have not been found.

Kind regards,

s. 22(1)(a)(ii)

s. 22(1)(a)(ii) Director South East Asia and ASEAN, Home Affairs
s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI Reviews mailbox
Sent: Tuesday, May 8, 2018 6:24 PM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii) @HOMEAFFAIRS.GOV.AU>; s. 22(1)(a)(ii)
s. 22(1)(a)(ii) @HOMEAFFAIRS.GOV.AU>
Subject: FOI internal review request FA 17/08/00642-R1 - Asher HIRSCH [DLM=For-Official-Use-Only]

For-Official-Use-Only

Dear s. 22(1)(a)(ii)

I am the case officer for the FOI internal review request FA 17/08/00642-R1. You may remember that as part of the primary decision on this request you provided the documents in scope and the advice about the documents contained in your email below. The decision maker s. 22(1)(a)(ii) made the decision to refuse access to the documents requested under sections 33(a)(iii) and 47 of the FOI Act. The FOI applicant has now applied for internal review of that decision. The review decision will be made by a decision maker at EL2 level or higher.

I have attached the original decision on the request (**attachment 1**) and the FOI applicant's request for internal review (**attachment 2**).

Background

The FOI applicant sought access to:

'Correspondence between Australia and Indonesia, and between Australia and the International Organisation for Migration (IOM), regarding the establishment of the Regional Cooperation Agreement (RCA). Correspondence may include letters, emails, phone call logs or transcripts or any other form of communication. Please limit this request to correspondence in 2000 and 2001.'

Issues

I have made a preliminary assessment of the documents within scope (**attachment 3**) and s. 47C(1)

s. 47C(1) . My comments on this material are as follows:

s. 47C(1)

- IOM and departmental addresses and logos are all in the public domain.
- The existence of an RCA between Australia and the IOM, and that it was signed in 2000 is also in the public domain, see page 1 of

<https://www.iom.int/files/live/sites/iom/files/Country/docs/IOM-Indonesia-Newsletter-for-January-2014.pdf>

s. 47C(1)

- It is also in the public domain that:
 - From 2000 onwards, Australia, the government of Indonesia and IOM were working together in Indonesia to combat people trafficking & irregular migration, see: <https://www.iom.int/news/un-migration-agency-facilitates-release-refugees-indonesian-detention-centres-0>.
 - Australia funds IOM to provide certain services including food, shelter, reception, Assisted Voluntary returns – see documents that were previously released for another FOI request FA 17/07/00010 (see **attachment 4**)
 - IOM refers migrants making protection claims to UNHCR (see **attachment 4**)
 - Certain other services are also provided by IOM staff, see this article: <http://www.refworld.org/docid/3c58099a1.html> particularly the “IOM plays lead role” section.

s. 47C(1), s. 33(a)(iii)

What I need from you

1. Please review the attached document at **attachment 3** and provide comments about the harm that would result from release of these sections. If you still wish to claim that the material is exempt, you may wish to provide further information in support of the existing exemptions that address the points I have raised above and the claims made by the FOI applicant in his review request.
2. The documents within the scope of the request constitute correspondence between the government of Australia and the IOM regarding the establishment of the RCA. None of the documents are correspondence between the governments of Australia and Indonesia about the RCA, documents about which were also specifically requested by the applicant and discussed in his review request. Can you confirm whether:
 - a. any documents exist in the Department’s possession that are correspondence between the governments of Australia and Indonesia about the establishment of the RCA? (I note that DFAT, which originally received the request, has advised that it does not hold any relevant documents.)
 - b. the steps you took to search for any relevant documents.
3. Please confirm whether **s. 22(1)(a)(ii)** agrees to be the authorised decision maker for this request. The alternative option is that **s. 22(1)(a)(ii)** (Acting Director, FOI) makes the decision.

Released by Department of Home Affairs
under the Freedom of Information Act 1982

As this request is already outside statutory timeframes, and you are also assisting us with a related internal review FA 17/08/00884-R1, we would appreciate a response to the above points by **Friday 25 May 2018**.

Regards,

s. 22(1)(a)(ii)

FOI Officer, Reviews Team

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii) [homeaffairs.gov.au](mailto:s.22(1)(a)(ii)@homeaffairs.gov.au)

For-Official-Use-Only

From: s. 22(1)(a)(ii)

Sent: 21 August 2017 9:27 AM

To: FOI <xxx@xxxxxx.xxx.xx>

Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@border.gov.au>; s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@border.gov.au>; Robert MCGREGOR <s. 22(1)(a)(ii)@BORDER.GOV.AU>; s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@BORDER.GOV.AU>

Subject: RE: New FOI Request – Seeking documents – Asher HIRSCH - FA 17/08/00642
[DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi FOI

Please find attached the 'exchange of letters' between the Australian government and IOM which established the RCA. As per our response to similar request FA 17/06/00830 (attached), the rationale behind not releasing the document is the same:

Please see attached the original "exchange of letters" between DIBP (then DIMA) and IOM in 2000.

Please note there is a risk that the release of these documents could cause potential harm to the bilateral relationship with Indonesia, and Australia's national security, and an exemption should be considered based on these concerns.

- **Additionally, there are potential commercial concerns for IOM (a key service provider for the department on a large number of projects) should this document be released.**

Happy to discuss further once your initial analysis is complete.

Kind regards

s. 22(1)(a)(ii)

Policy Officer, Indonesia and Timor-Leste Desk
Asia Branch | International Division
Policy Group
Department of Immigration and Border Protection
Telephone: s. 22(1)(a)(ii)
Email: s. 22(1)(a)(ii) [border.gov.au](mailto:s.22(1)(a)(ii)@border.gov.au)

For-Official-Use-Only

From: s. 22(1)(a)(ii)

Sent: Monday, 21 August 2017 8:34 AM

To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@border.gov.au>

Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@border.gov.au>

Subject: FW: New FOI Request – Seeking documents – Asher HIRSCH - FA 17/08/00642
[DLM=For-Official-Use-Only]

Hi s. 22(1)(a)(ii)

Another FOI for your action.

Many thanks,

s. 22(1)(a)(ii)

Sent with Good (www.good.com)

-----Original Message-----

From: FOI

Sent: Monday, August 21, 2017 08:02 AM AUS Eastern Standard Time

To: s. 22(1)(a)(ii)

Subject: New FOI Request – Seeking documents – Asher HIRSCH - FA 17/08/00642
[DLM=For-Official-Use-Only]

For-Official-Use-Only

Our references: SCR; FA 17/08/00642; ADF2017/87711

Good morning

For Action by Monday 28 August 2017

On 12 August 2017, the Department of Foreign Affairs and Trade received an FOI request from Asher HIRSCH, seeking access to:

‘Correspondence between Australia and Indonesia, and between Australia and the International Organisation for Migration (IOM), regarding the establishment of the Regional Cooperation Agreement (RCA). Correspondence may include letters, emails, phone call logs or transcripts or any other form of communication. Please limit this request to correspondence in 2000 and 2001.’

On 17 August 2017, the Department of Immigration and Border Protection agreed to accept transfer of this request under section 16(1)(b) of the FOI Act.

Your Division has been identified as holding documents that fall within the scope of this request, and we have discussed the request with s. 22(1)(a)(ii) of the Indonesia and Timor-Leste Desk. Could you please assign this request to the relevant business area for action.

If you consider that other business areas within the Department also hold documents that would be relevant to this request, could you please advise us as soon as possible.

Action required:

Documents identified:

- If the number of documents falling within the scope of the request is particularly large (i.e. over 300 pages), please let us know the approximate size of the request as soon as possible so that we can narrow/negotiate the size of the request with the applicant. i.e. please include a document count and the average number of pages; the types of documents captured would also be of assistance.
- Please forward any documents that fall within the scope of this request to foi@border.gov.au by **COB Monday 28 August 2017**.
- If there are any problems with meeting this deadline please advise me **as soon as possible**.
- Documents will be reviewed by the FOI Section and possible exemptions considered in consultation with the nominated decision maker. Please note that no information will be released to the FOI applicant without further consultation with you.
- When providing documents to FOI please advise us of any high level concerns; sensitivities; or any harm that would be caused, should the documents/specific information be released. i.e. harm to international relations. This information will be taken into consideration during the processing of the request.

No documents identified:

- If your area does not have any documents within the scope of this request, please let us know **as soon as possible**.

Assistance

Please find attached a checklist designed to assist your area in identifying documents and how to respond to the FOI Section. The advice provided in this checklist will assist in the processing of this FOI request.

The FOI Section is available to provide advice and assistance throughout this matter. If you have questions or require more information please do not hesitate to contact me on the details below.

Thank you for your assistance with processing this request.

Regards

With kind regards

s. 22(1)(a)(ii)

Acting Assistant Director, Freedom of Information Section
FOI, Privacy and Records Management Branch
Corporate Division
Department of Immigration and Border Protection

E: foi@border.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)
To: [FOI Reviews mailbox](#)
Cc: s. 22(1)(a)(ii) s. 22(1)(a)(ii)
Subject: FW: HPRM: RE: FOI internal review request FA 17/08/00642-R1 - Asher HIRSCH [DLM=For-Official-Use-Only]
Date: Friday, 1 June 2018 5:11:24 PM

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

We are comfortable that the text you propose is an adequate response and endorse with just one minor change:

- International Organization of Migration

I am not FOI qualified, but AS Asia, Robert McGregor (s. 22(1)(a)(ii) @homeaffairs.gov.au) could be the authorised decision maker.

Regards,

s. 22(1)(a)(ii)

s. 22(1)(a)(ii) Director South East Asia and ASEAN, Home Affairs
 s. 22(1)(a)(ii)

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: Friday, June 1, 2018 12:23 PM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@HOMEAFFAIRS.GOV.AU>
Cc: s. 22(1)(a)(ii) s. 22(1)(a)(ii) @HOMEAFFAIRS.GOV.AU>; s. 22(1)(a)(ii) s. 22(1)(a)(ii) @HOMEAFFAIRS.GOV.AU>
Subject: RE: HPRM: RE: FOI internal review request FA 17/08/00642-R1 - Asher HIRSCH [DLM=For-Official-Use-Only]

For-Official-Use-Only

s. 22(1)(a)(ii)

Sorry for the delay!

I have considered text drafted by FOI and discussed further with the FOI team. In agreement with the email below I believe the letters constitute an adequate response – without additional detail. This is partly because additional details are in themselves sensitive, and do not warrant public release.

On this basis, I **recommend you endorse the response as drafted** with one minor change:

- International Organization of Migration

Regards,

s. 22(1)(a)(ii)

Assistant Director Indonesia and Timor-Leste
South East Asia and ASEAN Section
Asia Branch | International Policy Division
Policy Group

Department of Home Affairs

P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)

E: s. 22(1)(a)(ii) [homeaffairs.gov.au](mailto:s.22(1)(a)(ii)@homeaffairs.gov.au)

For-Official-Use-Only

From: FOI Reviews mailbox

Sent: Friday, 1 June 2018 12:16 PM

To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@HOMEAFFAIRS.GOV.AU>

Cc: s. 22(1)(a)(ii) s. 22(1)(a)(ii)@HOMEAFFAIRS.GOV.AU; s. 22(1)(a)(ii)

<s. 22(1)(a)(ii)@HOMEAFFAIRS.GOV.AU>; FOI Reviews mailbox

<xxx.xxxxxxx@xxxxxxxxxxx.xxx.xx>

Subject: RE: HPRM: RE: FOI internal review request FA 17/08/00642-R1 - Asher HIRSCH

[DLM=For-Official-Use-Only]

For-Official-Use-Only

Dear s. 22(1)(a)(ii)

Further to my discussions with s. 22(1)(a)(ii) this morning, we do not believe we need you to provide any extra material to substantiate this decision unless you feel that it needs it to make sense.

If you are happy with the wording as it stands, then we will move towards a decision. Should the FOI applicant pursue an IC review, we can provide any extra reasoning that would support the exemption in confidence to the OAIC if necessary.

We do need you to suggest an authorised decision maker though. The original decision maker was s. 22(1)(a)(ii) so the decision needs to be made by someone at that level or higher.

Regards,

s. 22(1)(a)(ii)

FOI Officer, Reviews Team

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii) [homeaffairs.gov.au](mailto:s.22(1)(a)(ii)@homeaffairs.gov.au)

For-Official-Use-Only

From: FOI Reviews mailbox

Sent: 17 May 2018 5:59 PM

To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii) [HOMEAFFAIRS.GOV.AU](mailto:s.22(1)(a)(ii)@HOMEAFFAIRS.GOV.AU)>

Cc: s. 22(1)(a)(ii) s. 22(1)(a)(ii) [@HOMEAFFAIRS.GOV.AU](mailto:s.22(1)(a)(ii)@HOMEAFFAIRS.GOV.AU); s. 22(1)(a)(ii) <s. 22(1)(a)(ii) [HOMEAFFAIRS.GOV.AU](mailto:s.22(1)(a)(ii)@HOMEAFFAIRS.GOV.AU)>

Subject: HPRM: RE: FOI internal review request FA 17/08/00642-R1 - Asher HIRSCH [DLM=For-Official-Use-Only]

For-Official-Use-Only

Dear s. 22(1)(a)(ii)

Thank you for providing your response on the documents. Based on your response I am now drafting a decision letter for the signature of the decision maker (who is likely to be either you or the Director of FOI) in which the Department upholds its original refusal decision – however we will also be adding a section 24A refusal decision in relation to the Department's inability to locate correspondence between the governments of Australia and Indonesia.

I therefore need your assistance on the additional reasoning we will need to provide in the decision, which ideally will be different from the wording used in the original decision. Because there are two exemptions being used – s. 33(a)(iii) and s. 47(1)(b) – we need to provide reasoning for each exemption.

Section 33(a)(iii)

Below I have made a start on the reasoning to use for s. 33(a)(iii) – I am in particular looking for more information about how Australia's bilateral relationship with the Indonesian government would be harmed by release, and how the operations of the IOM in Indonesia (and ultimately the IOM's relationship with Australia) would be affected by disclosure. You may also wish to propose changes or additional arguments to strengthen the Department's reasoning for applying this exemption.

Section 33(a)(iii) of the FOI Act permits exemption of a document if disclosure of the document would, or could reasonably be expected to cause damage to the international relations of the Commonwealth.

International relations with the government of Indonesia

I have considered your claims that disclosure would not impact international relations since the government of Indonesia is a party to the agreement and would be aware of its terms. While I consider it likely that the government of Indonesia would be aware of the terms of the RCA, it is not a signatory to the agreement, which is between the IOM and the government of Australia.

Nevertheless, I maintain that disclosure of the documents would or could reasonably be expected to cause damage to the relationship between the governments of Australia and Indonesia. I have formed this opinion because the documents provide an insight into the methods used by the governments of Indonesia and Australia in combating people trafficking and irregular migration through Indonesia, as well as the overall strategy on this issue adopted by both countries.

The disclosure of certain information in the schedule and in the letters between the Department and the IOM would also reveal the details of negotiations between the governments of Australia and Indonesia.

I am of the opinion that the government of Indonesia would be less willing to cooperate with the Australian government in the future if the information were released. I have formed that opinion considering the nature of the bilateral relationship between Australia and Indonesia and the status of Indonesia as a regional partner of Australia. The maintenance of the relationship between the two countries depends on an atmosphere of trust. That trust would be diminished if the government of Australia publicly disclosed information about the operations of the government of Indonesia and about the details of confidential negotiations between the two countries.

I have formed this opinion despite the age of the documents, since the two governments continue to work together to combat people trafficking and irregular migration through Indonesia, the methods described in the schedule for the provision of services are still in use today and the capacity of the two governments to work together and share information would still be adversely affected if details of their negotiations were publicly disclosed.

International relations with the International Organization of Migration

I am also of the opinion that disclosure would or could reasonably be expected to cause damage to the relationship between the government of Australia and the IOM. As stated in section 5.36 of the Information Commissioner guidelines, the phrase 'international relations' refers to the ability of the Australian government to maintain good working relations with international organisations, as well as with other governments. The IOM is an international organisation to which the *International Organisations (Privileges and Immunities) Act 1963* applies and is also a related organisation of the United Nations.

I am of the opinion that disclosure of the documents would reveal information that was shared between the IOM and the government of Australia in the expectation that it would be handled in a confidential manner. The documents include correspondence between senior officers of the Department and the IOM that refers to high-level negotiations between the two parties, negotiations that would have been conducted in confidence. The ability of the two organisations to communicate freely with each other in future and make decisions would be compromised if their respective officers believed that the details of their discussions would be publicly disclosed.

The other document is a schedule for the provision of services, which contains details of the contractual arrangements between the IOM and the government of Australia, the details of which are also of commercial value to the IOM.

While certain information in the documents – such as the names of officers and information confirming the existence of an agreement between the two

organisations – is in the public domain, I remain of the opinion that the disclosure of the documents in their entirety would have a sufficiently adverse effect to warrant non-disclosure. In particular, the information in the schedule for the provision of services reveals details of the duties to be performed by the IOM in Indonesia, and of payments and reporting requirements that are more specific and detailed than the information already in the public domain. The documents refer to activities in Indonesia that are still ongoing, and as such the age of the documents does not reduce the impact of disclosure.

The disclosure of these documents in their entirety would, in my opinion, damage the relationship between the IOM and the government of Australia and reduce the capacity of the two parties to work together in the region. I have formed the opinion taking into account the significant role the IOM plays in multilateral regional cooperative efforts against people smuggling, as well as in providing services to migrants in Australia and in regional processing countries.

As such I have decided that the information in the documents indicated in the Schedule at Attachment A remains exempt from disclosure under section 33(a)(iii) of the FOI Act.

Section 47

Below is the proposed reasoning for s. 47(1)(b). Again – you may wish to propose changes or additional arguments to strengthen the Department's reasoning for applying this exemption.

Section 47 provides that a document is an exempt document if its disclosure under this Act would disclose any information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed.

In determining whether the information within the documents is commercially valuable, I have had regard to the following factors:

- whether the information is known only to the person for whom it has value or, if it is known to others, to what extent that detracts from its intrinsic commercial value
- whether the information confers a competitive advantage on the person to whom it relates – for example, if it lowers the cost of production or allows access to markets not available to competitors
- whether a genuine "arm's-length" buyer would be prepared to pay to obtain that information
- whether the information is still current or out of date (noting that out of date information may no longer have any value)
- whether disclosing the information would reduce the value of a business operation or commercial activity, reflected perhaps in a lower share price.

I have decided:

- that the information contained in the schedule for the provision of services

is commercially valuable and therefore that I affirm the original decision that these documents are exempt under section 47(1)(b)

- that the correspondence between the IOM and the Department does not contain commercially valuable information and section 47(1)(b) does not apply to these documents.

I have considered your claims that the information in the documents is not of commercial value or that the value would not be diminished or destroyed if released.

I have decided to affirm the Department's decision that the information in the schedule for the provision of services is commercially valuable because the information relates to services the Australian government funds the IOM to perform in Indonesia. In particular, the information in the documents provides an indication of the services the IOM currently provides under the terms of the agreement, the specific ways in which the IOM performs the services and the financial terms of the contract, including the funds the IOM is authorised to spend on each client.

I also consider that disclosure of the information confers a competitive advantage on the IOM, since the information relates to services currently provided only by the IOM in response to the specific needs of the governments of Australia and Indonesia. Disclosure of the material would allow potential competitors to enter the market, and I am of the opinion that an 'arms-length' competitor would be prepared to pay for such information, given the total commercial value of the services provided. Allowing competitors to enter the market would diminish the capacity for the IOM to carry out the activity on a profitable or viable basis in future, since – once the information was publicly disclosed – potential competitors would be able to propose ways in which to provide the same services at a reduced cost, which in turn would force the IOM to compete with any reduced terms.

The information is also only known to a small number of individuals who are employed by the IOM, the Department and the government of Indonesia and who have a particular involvement in the services provided by the IOM in Indonesia. In my opinion, the fact that people employed by organisations other than the IOM are already aware of the terms of the schedule does not reduce the intrinsic commercial value of the information, since only a limited number of people within the governments of Australia and Indonesia would have access to the information, and both governments would allow access to the information on a 'needs to know' basis only.

Finally, while the information is not recent, given that the RCA dates from 2000, I understand that the agreement between the two parties is ongoing, and therefore that the information described in the schedule is current and still of commercial value.

I have therefore decided that schedule for the provision of services is exempt from disclosure under section 47 of the FOI Act.

Section 24A

You advised that searches had already been conducted for documents between the Governments of Australia and Indonesia regarding the establishment of the RCA and further relevant documents have not been found.

In order to complete the reasoning wording for this part of the decision, **please advise of the steps your business area took to locate the documents (for example consultation with relevant officers, checks of local drives).**

Response required

Could you please respond to this email by **cob Friday 25 May** and:

- provide your comments on the above wording, including details of the searches conducted for relevant documents relating to communications between the governments of Australia and Indonesia
- advise who will be the authorised decision maker for this review decision.

Regards,

s. 22(1)(a)(ii)

FOI Officer, Reviews Team

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii) [homeaffairs.gov.au](mailto:s.22(1)(a)(ii)@homeaffairs.gov.au)

For-Official-Use-Only

From: s. 22(1)(a)(ii)

Sent: 12 May 2018 12:33 PM

To: FOI Reviews mailbox <xxx.xxxxxxx@xxxxxxxxxxxxx.xxx.xx>

Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@HOMEAFFAIRS.GOV.AU>; s. 22(1)(a)(ii)

<s. 22(1)(a)(ii)@HOMEAFFAIRS.GOV.AU>

Subject: RE: FOI internal review request FA 17/08/00642-R1 - Asher HIRSCH [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

I have consulted with Assistant Secretary Asia, Robert McGregor, who is a qualified FOI decision maker (he undertook training with the Department of Defence).

And we advise as follows:

1. The conditions and arrangement under the original exchange of letters remains active.
2. The assessment made by the previous decision maker s. 22(1)(a)(ii) in relation to Section 33 (a) (iii) and Section 47 of the FOI Act remain entirely valid in our assessment,

and we maintain that the release of these documents could be expected to cause harm to Australia's bilateral relations with Indonesia, s. 47C(1).

3. It is our understanding that searches have already been conducted for documents between the Governments of Australia and Indonesia regarding the establishment of the RCA and further relevant documents have not been found.

Kind regards,

s. 22(1)(a)(ii)

s. 22(1)(a)(ii) Director South East Asia and ASEAN, Home Affairs
s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI Reviews mailbox

Sent: Tuesday, May 8, 2018 6:24 PM

To: s. 22(1)(a)(ii) s. 22(1)(a)(ii) <[s.22\(1\)\(a\)\(ii\)@HOMEAFFAIRS.GOV.AU](mailto:s.22(1)(a)(ii)@HOMEAFFAIRS.GOV.AU)>; s. 22(1)(a)(ii) <[s.22\(1\)\(a\)\(ii\)@HOMEAFFAIRS.GOV.AU](mailto:s.22(1)(a)(ii)@HOMEAFFAIRS.GOV.AU)>

Subject: FOI internal review request FA 17/08/00642-R1 - Asher HIRSCH [DLM=For-Official-Use-Only]

For-Official-Use-Only

Dear s. 22(1)(a)(ii)

I am the case officer for the FOI internal review request FA 17/08/00642-R1. You may remember that as part of the primary decision on this request you provided the documents in scope and the advice about the documents contained in your email below. The decision maker s. 22(1)(a)(ii) made the decision to refuse access to the documents requested under sections 33(a)(iii) and 47 of the FOI Act. The FOI applicant has now applied for internal review of that decision. The review decision will be made by a decision maker at EL2 level or higher.

I have attached the original decision on the request (**attachment 1**) and the FOI applicant's request for internal review (**attachment 2**).

Background

The FOI applicant sought access to:

'Correspondence between Australia and Indonesia, and between Australia and the International Organisation for Migration (IOM), regarding the establishment of the Regional Cooperation Agreement (RCA). Correspondence may include letters, emails, phone call logs or transcripts or any other form of communication. Please limit this request to correspondence in 2000 and 2001.'

Issues

I have made a preliminary assessment of the documents within scope (**attachment 3**) and s. 47C(1)

s. 47C(1)

s. 47C(1)

. My comments on this material are as follows:

s. 47C(1)

- IOM and departmental addresses and logos are all in the public domain.
- The existence of an RCA between Australia and the IOM, and that it was signed in 2000 is also in the public domain, see page 1 of <https://www.iom.int/files/live/sites/iom/files/Country/docs/IOM-Indonesia-Newsletter-for-January-2014.pdf>

s. 47C(1)

- It is also in the public domain that:
 - From 2000 onwards, Australia, the government of Indonesia and IOM were working together in Indonesia to combat people trafficking & irregular migration, see: <https://www.iom.int/news/un-migration-agency-facilitates-release-refugees-indonesian-detention-centres-0> .
 - Australia funds IOM to provide certain services including food, shelter, reception, Assisted Voluntary returns – see documents that were previously released for another FOI request FA 17/07/00010 (see **attachment 4**)
 - IOM refers migrants making protection claims to UNHCR (see **attachment 4**)
 - Certain other services are also provided by IOM staff, see this article: <http://www.refworld.org/docid/3c58099a1.html> particularly the “IOM plays lead role” section.

s. 47C(1), s. 33(a)(iii)

What I need from you

1. Please review the attached document at **attachment 3** and provide comments about the harm that would result from release of these sections. If you still wish to claim that the material is exempt, you may wish to provide further information in support of the existing exemptions that address the points I have raised above and the claims made by the FOI applicant in his review request.
2. The documents within the scope of the request constitute correspondence between the government of Australia and the IOM regarding the establishment of the RCA. None of the documents are correspondence between the governments of Australia and

Indonesia about the RCA, documents about which were also specifically requested by the applicant and discussed in his review request. Can you confirm whether:

- a. any documents exist in the Department's possession that are correspondence between the governments of Australia and Indonesia about the establishment of the RCA? (I note that DFAT, which originally received the request, has advised that it does not hold any relevant documents.)
 - b. the steps you took to search for any relevant documents.
3. Please confirm whether s. 22(1)(a)(ii) agrees to be the authorised decision maker for this request. The alternative option is that s. 22(1)(a)(ii) (Acting Director, FOI) makes the decision.

As this request is already outside statutory timeframes, and you are also assisting us with a related internal review FA 17/08/00884-R1, we would appreciate a response to the above points by **Friday 25 May 2018**.

Regards,

s. 22(1)(a)(ii)

FOI Officer, Reviews Team

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii) [homeaffairs.gov.au](mailto:s.22(1)(a)(ii)@homeaffairs.gov.au)

For-Official-Use-Only

From: s. 22(1)(a)(ii)

Sent: 21 August 2017 9:27 AM

To: FOI <xxx@xxxxxx.xxx.xx>

Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii) [border.gov.au](mailto:s.22(1)(a)(ii)@border.gov.au)>; s. 22(1)(a)(ii) <s. 22(1)(a)(ii) [border.gov.au](mailto:s.22(1)(a)(ii)@border.gov.au)>; Robert MCGREGOR <s. 22(1)(a)(ii) [@BORDER.GOV.AU](mailto:s.22(1)(a)(ii)@BORDER.GOV.AU)>; s. 22(1)(a)(ii) <s. 22(1)(a)(ii) [BORDER.GOV.AU](mailto:s.22(1)(a)(ii)@BORDER.GOV.AU)>

Subject: RE: New FOI Request – Seeking documents – Asher HIRSCH - FA 17/08/00642
[DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi FOI

Please find attached the 'exchange of letters' between the Australian government and IOM which established the RCA. As per our response to similar request FA 17/06/00830 (attached), the rationale behind not releasing the document is the same:

Please see attached the original "exchange of letters" between DIBP (then DIMA) and IOM in 2000.

Please note there is a risk that the release of these documents could cause potential harm to the bilateral relationship with Indonesia, and Australia's national security, and an exemption should be considered based on these concerns.

Additionally, there are potential commercial concerns for IOM (a key service provider for the department on a large number of projects) should this document be released.

Happy to discuss further once your initial analysis is complete.

Kind regards

s. 22(1)(a)(ii)

Policy Officer, Indonesia and Timor-Leste Desk
Asia Branch | International Division
Policy Group
Department of Immigration and Border Protection
Telephone: s. 22(1)(a)(ii)
Email: s. 22(1)(a)(ii) [border.gov.au](mailto:s.22(1)(a)(ii)@border.gov.au)

For-Official-Use-Only

From: s. 22(1)(a)(ii)

Sent: Monday, 21 August 2017 8:34 AM

To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@border.gov.au>

Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@border.gov.au>

Subject: FW: New FOI Request – Seeking documents – Asher HIRSCH - FA 17/08/00642
[DLM=For-Official-Use-Only]

Hi s. 22(1)(a)(ii)

Another FOI for your action.

Many thanks,

s. 22(1)(a)(ii)

Sent with Good (www.good.com)

-----Original Message-----

From: FOI

Sent: Monday, August 21, 2017 08:02 AM AUS Eastern Standard Time

To: s. 22(1)(a)(ii)

Subject: New FOI Request – Seeking documents – Asher HIRSCH - FA 17/08/00642
[DLM=For-Official-Use-Only]

Our references: SCR; FA 17/08/00642; ADF2017/87711

Good morning

For Action by Monday 28 August 2017

On 12 August 2017, the Department of Foreign Affairs and Trade received an FOI request from Asher HIRSCH, seeking access to:

‘Correspondence between Australia and Indonesia, and between Australia and the International Organisation for Migration (IOM), regarding the establishment of the Regional Cooperation Agreement (RCA). Correspondence may include letters, emails, phone call logs or transcripts or any other form of communication. Please limit this request to correspondence in 2000 and 2001.’

On 17 August 2017, the Department of Immigration and Border Protection agreed to accept transfer of this request under section 16(1)(b) of the FOI Act.

Your Division has been identified as holding documents that fall within the scope of this request, and we have discussed the request with s. 22(1)(a)(ii) of the Indonesia and Timor-Leste Desk. Could you please assign this request to the relevant business area for action.

If you consider that other business areas within the Department also hold documents that would be relevant to this request, could you please advise us as soon as possible.

Action required:

Documents identified:

- If the number of documents falling within the scope of the request is particularly large (i.e. over 300 pages), please let us know the approximate size of the request as soon as possible so that we can narrow/negotiate the size of the request with the applicant. i.e. please include a document count and the average number of pages; the types of documents captured would also be of assistance.
- Please forward any documents that fall within the scope of this request to foi@border.gov.au by **COB Monday 28 August 2017**.
- If there are any problems with meeting this deadline please advise me **as soon as possible**.
- Documents will be reviewed by the FOI Section and possible exemptions considered in consultation with the nominated decision maker. Please note that no information will be released to the FOI applicant without further consultation with you.
- When providing documents to FOI please advise us of any high level concerns; sensitivities; or any harm that would be caused, should the documents/specific information be released. i.e. harm to international relations. This information will be taken into consideration during the processing of the request.

No documents identified:

- If your area does not have any documents within the scope of this request, please let us know **as soon as possible**.

Assistance

Please find attached a checklist designed to assist your area in identifying documents and how to respond to the FOI Section. The advice provided in this checklist will assist in the processing of this FOI request.

The FOI Section is available to provide advice and assistance throughout this matter. If you have questions or require more information please do not hesitate to contact me on the details below.

Thank you for your assistance with processing this request.

Regards

With kind regards

s. 22(1)(a)(ii)

Acting Assistant Director, Freedom of Information Section
FOI, Privacy and Records Management Branch
Corporate Division
Department of Immigration and Border Protection

E: foi@border.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)
To: [FOI Reviews mailbox](#)
Cc: s. 22(1)(a)(ii) s. 22(1)(a)(ii)
Subject: RE: HPRM: RE: FOI internal review request FA 17/08/00642-R1 - Asher HIRSCH [DLM=For-Official-Use-Only]
Date: Monday, 25 June 2018 4:23:52 PM

For-Official-Use-Only

Good afternoon s. 22(1)(a)(ii)

Based on the memory of a staff member working on the desk at the time, we suggest the following databases were searched:

- G: Drive
- TRIM
- P: Drive
- Outlook

I believe we also asked staff at Post Jakarta to undertake similar searches. Please note that this overview is based on memory alone – we do not have formal records outlining the searches conducted. I trust it is still of assistance.

Warm regards,

s. 22(1)(a)(ii)

Assistant Director Indonesia and Timor-Leste
 South East Asia and ASEAN Section
 Asia Branch | International Policy Division
 Policy Group

Department of Home Affairs

P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)

E: s. 47E(d) [homeaffairs.gov.au](mailto:s. 22(1)(a)(ii)@homeaffairs.gov.au)

E: s. 22(1)(a)(ii) [homeaffairs.gov.au](mailto:s. 22(1)(a)(ii)@homeaffairs.gov.au)

For-Official-Use-Only

From: FOI Reviews mailbox
Sent: Thursday, 21 June 2018 4:55 PM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@HOMEAFFAIRS.GOV.AU>
Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@HOMEAFFAIRS.GOV.AU>; s. 22(1)(a)(ii)@HOMEAFFAIRS.GOV.AU
Subject: RE: HPRM: RE: FOI internal review request FA 17/08/00642-R1 - Asher HIRSCH [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

I am in the process of finalising the decision letter for the below request for Robert McGregor's

signature.

In that decision we will need to provide further reasoning to support the application of s. 24A of the FOI Act to refuse access to correspondence between the governments of Australia and Indonesia about the establishment of the Regional Cooperation Agreement (RCA) on the grounds that these documents could not be found. In particular we would need to provide information about the searches undertaken for the documents.

In your email of 12 May in the email chain below, you advised that searches had already been conducted for these documents for the original request but they could not be found.

Could you elaborate further on what those searches were (for example searches of local drives, email, enquiries with officers etc)?

As we have another FOI request from the same applicant (FA 17/06/00884) that is ready for decision, and we would ideally like Robert to sign both decisions at the same time, I would appreciate a response by **cob tomorrow, Friday 22 June**.

Regards,

s. 22(1)(a)(ii)

FOI Officer, Reviews Team

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii) [homeaffairs.gov.au](mailto:s.22(1)(a)(ii)@homeaffairs.gov.au)

For-Official-Use-Only

From: s. 22(1)(a)(ii)

Sent: 1 June 2018 5:11 PM

To: FOI Reviews mailbox <xxx.xxxxxxx@xxxxxxxxxxx.xxx.xx>

Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii) [HOMEAFFAIRS.GOV.AU](mailto:s.22(1)(a)(ii)@HOMEAFFAIRS.GOV.AU)>; s. 22(1)(a)(ii)

s. 22(1)(a)(ii) [@HOMEAFFAIRS.GOV.AU](mailto:s.22(1)(a)(ii)@HOMEAFFAIRS.GOV.AU)>

Subject: FW: HPRM: RE: FOI internal review request FA 17/08/00642-R1 - Asher HIRSCH
[DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

We are comfortable that the text you propose is an adequate response and endorse with just one minor change:

- International Organization of Migration

I am not FOI qualified, but AS Asia, Robert McGregor (s. 22(1)(a)(ii) [@homeaffairs.gov.au](mailto:s.22(1)(a)(ii)@homeaffairs.gov.au)) could be the authorised decision maker.

Regards,

s. 22(1)(a)(ii)

s. 22(1)(a)(ii) Director South East Asia and ASEAN, Home Affairs
s. 22(1)(a)(ii)

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: Friday, June 1, 2018 12:23 PM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii) [HOMEAFFAIRS.GOV.AU](mailto:s.22(1)(a)(ii)@homeaffairs.gov.au)>
Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii) [@HOMEAFFAIRS.GOV.AU](mailto:s.22(1)(a)(ii)@homeaffairs.gov.au)>; s. 22(1)(a)(ii) [@HOMEAFFAIRS.GOV.AU](mailto:s.22(1)(a)(ii)@homeaffairs.gov.au)>
Subject: RE: HPRM: RE: FOI internal review request FA 17/08/00642-R1 - Asher HIRSCH [DLM=For-Official-Use-Only]

For-Official-Use-Only

s. 22(1)(a)(ii)

Sorry for the delay!

I have considered text drafted by FOI and discussed further with the FOI team. In agreement with the email below I believe the letters constitute an adequate response – without additional detail. This is partly because additional details are in themselves sensitive, and do not warrant public release.

On this basis, I **recommend you endorse the response as drafted** with one minor change:

- International Organization of Migration

Regards,

s. 22(1)(a)(ii)
Assistant Director Indonesia and Timor-Leste
South East Asia and ASEAN Section
Asia Branch | International Policy Division
Policy Group
Department of Home Affairs
P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii) [homeaffairs.gov.au](mailto:s.22(1)(a)(ii)@homeaffairs.gov.au)

For-Official-Use-Only

From: FOI Reviews mailbox

Sent: Friday, 1 June 2018 12:16 PM

To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii) [HOMEAFFAIRS.GOV.AU](mailto:s.22(1)(a)(ii)@HOMEAFFAIRS.GOV.AU)>

Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii) [@HOMEAFFAIRS.GOV.AU](mailto:s.22(1)(a)(ii)@HOMEAFFAIRS.GOV.AU)>; s. 22(1)(a)(ii)

<s. 22(1)(a)(ii) [HOMEAFFAIRS.GOV.AU](mailto:s.22(1)(a)(ii)@HOMEAFFAIRS.GOV.AU)>; FOI Reviews mailbox

<xxx.xxxxxxx@xxxxxxxxxxxx.xxx.xx>

Subject: RE: HPRM: RE: FOI internal review request FA 17/08/00642-R1 - Asher HIRSCH
[DLM=For-Official-Use-Only]

For-Official-Use-Only

Dear s. 22(1)(a)(ii)

Further to my discussions with s. 22(1)(a)(ii) this morning, we do not believe we need you to provide any extra material to substantiate this decision unless you feel that it needs it to make sense.

If you are happy with the wording as it stands, then we will move towards a decision. Should the FOI applicant pursue an IC review, we can provide any extra reasoning that would support the exemption in confidence to the OAIC if necessary.

We do need you to suggest an authorised decision maker though. The original decision maker was s. 22(1)(a)(ii) so the decision needs to be made by someone at that level or higher.

Regards,

s. 22(1)(a)(ii)

FOI Officer, Reviews Team

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii) [homeaffairs.gov.au](mailto:s.22(1)(a)(ii)@homeaffairs.gov.au)

For-Official-Use-Only

From: FOI Reviews mailbox

Sent: 17 May 2018 5:59 PM

To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii) [HOMEAFFAIRS.GOV.AU](mailto:s.22(1)(a)(ii)@HOMEAFFAIRS.GOV.AU)>

Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii) [@HOMEAFFAIRS.GOV.AU](mailto:s.22(1)(a)(ii)@HOMEAFFAIRS.GOV.AU)>; s. 22(1)(a)(ii)

<s. 22(1)(a)(ii) [HOMEAFFAIRS.GOV.AU](mailto:s.22(1)(a)(ii)@HOMEAFFAIRS.GOV.AU)>

Subject: HPRM: RE: FOI internal review request FA 17/08/00642-R1 - Asher HIRSCH [DLM=For-Official-Use-Only]

Dear s. 22(1)(a)(ii)

Thank you for providing your response on the documents. Based on your response I am now drafting a decision letter for the signature of the decision maker (who is likely to be either you or the Director of FOI) in which the Department upholds its original refusal decision – however we will also be adding a section 24A refusal decision in relation to the Department’s inability to locate correspondence between the governments of Australia and Indonesia.

I therefore need your assistance on the additional reasoning we will need to provide in the decision, which ideally will be different from the wording used in the original decision. Because there are two exemptions being used – s. 33(a)(iii) and s. 47(1)(b) – we need to provide reasoning for each exemption.

Section 33(a)(iii)

Below I have made a start on the reasoning to use for s. 33(a)(iii) – I am in particular looking for more information about how Australia’s bilateral relationship with the Indonesian government would be harmed by release, and how the operations of the IOM in Indonesia (and ultimately the IOM’s relationship with Australia) would be affected by disclosure. You may also wish to propose changes or additional arguments to strengthen the Department’s reasoning for applying this exemption.

Section 33(a)(iii) of the FOI Act permits exemption of a document if disclosure of the document would, or could reasonably be expected to cause damage to the international relations of the Commonwealth.

International relations with the government of Indonesia

I have considered your claims that disclosure would not impact international relations since the government of Indonesia is a party to the agreement and would be aware of its terms. While I consider it likely that the government of Indonesia would be aware of the terms of the RCA, it is not a signatory to the agreement, which is between the IOM and the government of Australia.

Nevertheless, I maintain that disclosure of the documents would or could reasonably be expected to cause damage to the relationship between the governments of Australia and Indonesia. I have formed this opinion because the documents provide an insight into the methods used by the governments of Indonesia and Australia in combating people trafficking and irregular migration through Indonesia, as well as the overall strategy on this issue adopted by both countries.

The disclosure of certain information in the schedule and in the letters between the Department and the IOM would also reveal the details of negotiations between the governments of Australia and Indonesia.

I am of the opinion that the government of Indonesia would be less willing to cooperate with the Australian government in the future if the information were released. I have formed that opinion considering the nature of the bilateral relationship between Australia and Indonesia and the status of Indonesia as a regional partner of Australia. The maintenance of the relationship between the two

countries depends on an atmosphere of trust. That trust would be diminished if the government of Australia publicly disclosed information about the operations of the government of Indonesia and about the details of confidential negotiations between the two countries.

I have formed this opinion despite the age of the documents, since the two governments continue to work together to combat people trafficking and irregular migration through Indonesia, the methods described in the schedule for the provision of services are still in use today and the capacity of the two governments to work together and share information would still be adversely affected if details of their negotiations were publicly disclosed.

International relations with the International Organization of Migration

I am also of the opinion that disclosure would or could reasonably be expected to cause damage to the relationship between the government of Australia and the IOM. As stated in section 5.36 of the Information Commissioner guidelines, the phrase 'international relations' refers to the ability of the Australian government to maintain good working relations with international organisations, as well as with other governments. The IOM is an international organisation to which the *International Organisations (Privileges and Immunities) Act 1963* applies and is also a related organisation of the United Nations.

I am of the opinion that disclosure of the documents would reveal information that was shared between the IOM and the government of Australia in the expectation that it would be handled in a confidential manner. The documents include correspondence between senior officers of the Department and the IOM that refers to high-level negotiations between the two parties, negotiations that would have been conducted in confidence. The ability of the two organisations to communicate freely with each other in future and make decisions would be compromised if their respective officers believed that the details of their discussions would be publicly disclosed.

The other document is a schedule for the provision of services, which contains details of the contractual arrangements between the IOM and the government of Australia, the details of which are also of commercial value to the IOM.

While certain information in the documents – such as the names of officers and information confirming the existence of an agreement between the two organisations – is in the public domain, I remain of the opinion that the disclosure of the documents in their entirety would have a sufficiently adverse effect to warrant non-disclosure. In particular, the information in the schedule for the provision of services reveals details of the duties to be performed by the IOM in Indonesia, and of payments and reporting requirements that are more specific and detailed than the information already in the public domain. The documents refer to activities in Indonesia that are still ongoing, and as such the age of the documents does not reduce the impact of disclosure.

The disclosure of these documents in their entirety would, in my opinion, damage the relationship between the IOM and the government of Australia and reduce the capacity of the two parties to work together in the region. I have formed the opinion taking into account the significant role the IOM plays in multilateral regional cooperative efforts against people smuggling, as well as in providing services to migrants in Australia and in regional processing countries.

As such I have decided that the information in the documents indicated in the

Schedule at Attachment A remains exempt from disclosure under section 33(a)(iii) of the FOI Act.

Section 47

Below is the proposed reasoning for s. 47(1)(b). Again – you may wish to propose changes or additional arguments to strengthen the Department's reasoning for applying this exemption.

Section 47 provides that a document is an exempt document if its disclosure under this Act would disclose any information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed.

In determining whether the information within the documents is commercially valuable, I have had regard to the following factors:

- whether the information is known only to the person for whom it has value or, if it is known to others, to what extent that detracts from its intrinsic commercial value
- whether the information confers a competitive advantage on the person to whom it relates – for example, if it lowers the cost of production or allows access to markets not available to competitors
- whether a genuine "arm's-length" buyer would be prepared to pay to obtain that information
- whether the information is still current or out of date (noting that out of date information may no longer have any value)
- whether disclosing the information would reduce the value of a business operation or commercial activity, reflected perhaps in a lower share price.

I have decided:

- that the information contained in the schedule for the provision of services is commercially valuable and therefore that I affirm the original decision that these documents are exempt under section 47(1)(b)
- that the correspondence between the IOM and the Department does not contain commercially valuable information and section 47(1)(b) does not apply to these documents.

I have considered your claims that the information in the documents is not of commercial value or that the value would not be diminished or destroyed if released.

I have decided to affirm the Department's decision that the information in the schedule for the provision of services is commercially valuable because the information relates to services the Australian government funds the IOM to perform in Indonesia. In particular, the information in the documents provides an indication of the services the IOM currently provides under the terms of the agreement, the specific ways in which the IOM performs the services and the

financial terms of the contract, including the funds the IOM is authorised to spend on each client.

I also consider that disclosure of the information confers a competitive advantage on the IOM, since the information relates to services currently provided only by the IOM in response to the specific needs of the governments of Australia and Indonesia. Disclosure of the material would allow potential competitors to enter the market, and I am of the opinion that an 'arms-length' competitor would be prepared to pay for such information, given the total commercial value of the services provided. Allowing competitors to enter the market would diminish the capacity for the IOM to carry out the activity on a profitable or viable basis in future, since – once the information was publicly disclosed – potential competitors would be able to propose ways in which to provide the same services at a reduced cost, which in turn would force the IOM to compete with any reduced terms.

The information is also only known to a small number of individuals who are employed by the IOM, the Department and the government of Indonesia and who have a particular involvement in the services provided by the IOM in Indonesia. In my opinion, the fact that people employed by organisations other than the IOM are already aware of the terms of the schedule does not reduce the intrinsic commercial value of the information, since only a limited number of people within the governments of Australia and Indonesia would have access to the information, and both governments would allow access to the information on a 'needs to know' basis only.

Finally, while the information is not recent, given that the RCA dates from 2000, I understand that the agreement between the two parties is ongoing, and therefore that the information described in the schedule is current and still of commercial value.

I have therefore decided that schedule for the provision of services is exempt from disclosure under section 47 of the FOI Act.

Section 24A

You advised that searches had already been conducted for documents between the Governments of Australia and Indonesia regarding the establishment of the RCA and further relevant documents have not been found.

In order to complete the reasoning wording for this part of the decision, **please advise of the steps your business area took to locate the documents (for example consultation with relevant officers, checks of local drives).**

Response required

Could you please respond to this email by **cob Friday 25 May** and:

- provide your comments on the above wording, including details of the searches conducted for relevant documents relating to communications between the governments of Australia and Indonesia
- advise who will be the authorised decision maker for this review decision.

Regards,

s. 22(1)(a)(ii)

FOI Officer, Reviews Team
Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch
Productivity and Compliance Division | Corporate and Enabling Group
Department of Home Affairs
Telephone: s. 22(1)(a)(ii)
Email: s. 22(1)(a)(ii) [homeaffairs.gov.au](mailto:s.22(1)(a)(ii)@homeaffairs.gov.au)

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: 12 May 2018 12:33 PM
To: FOI Reviews mailbox <xxx.xxxxxxx@xxxxxxxxxxxxx.xxx.xx>
Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@HOMEAFFAIRS.GOV.AU>; s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@HOMEAFFAIRS.GOV.AU>
Subject: RE: FOI internal review request FA 17/08/00642-R1 - Asher HIRSCH [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

I have consulted with Assistant Secretary Asia, Robert McGregor, who is a qualified FOI decision maker (he undertook training with the Department of Defence).

And we advise as follows:

1. The conditions and arrangement under the original exchange of letters remains active.
2. The assessment made by the previous decision maker (s. 22(1)(a)(ii)) in relation to Section 33 (a) (iii) and Section 47 of the FOI Act remain entirely valid in our assessment, and we maintain that the release of these documents could be expected to cause harm to Australia's bilateral relations with Indonesia, s. 47C(1)
3. It is our understanding that searches have already been conducted for documents between the Governments of Australia and Indonesia regarding the establishment of the RCA and further relevant documents have not been found.

Kind regards,

s. 22(1)(a)(ii)

s. 22(1)(a)(ii) Director South East Asia and ASEAN, Home Affairs
s. 22(1)(a)(ii)

For-Official-Use-Only

Released by Department of Home Affairs
under the Freedom of Information Act 1982

From: FOI Reviews mailbox

Sent: Tuesday, May 8, 2018 6:24 PM

To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii) @HOMEAFFAIRS.GOV.AU>; s. 22(1)(a)(ii) <s. 22(1)(a)(ii) HOMEAFFAIRS.GOV.AU>

Subject: FOI internal review request FA 17/08/00642-R1 - Asher HIRSCH [DLM=For-Official-Use-Only]

For-Official-Use-Only

Dear s. 22(1)(a)(ii)

I am the case officer for the FOI internal review request FA 17/08/00642-R1. You may remember that as part of the primary decision on this request you provided the documents in scope and the advice about the documents contained in your email below. The decision maker s. 22(1)(a)(ii) made the decision to refuse access to the documents requested under sections 33(a)(iii) and 47 of the FOI Act. The FOI applicant has now applied for internal review of that decision. The review decision will be made by a decision maker at EL2 level or higher.

I have attached the original decision on the request (**attachment 1**) and the FOI applicant's request for internal review (**attachment 2**).

Background

The FOI applicant sought access to:

'Correspondence between Australia and Indonesia, and between Australia and the International Organisation for Migration (IOM), regarding the establishment of the Regional Cooperation Agreement (RCA). Correspondence may include letters, emails, phone call logs or transcripts or any other form of communication. Please limit this request to correspondence in 2000 and 2001.'

Issues

I have made a preliminary assessment of the documents within scope (**attachment 3**) and s. 47C(1)

s. 47C(1). My comments on this material are as follows:

s. 47C(1)

- IOM and departmental addresses and logos are all in the public domain.
- The existence of an RCA between Australia and the IOM, and that it was signed in 2000 is also in the public domain, see page 1 of <https://www.iom.int/files/live/sites/iom/files/Country/docs/IOM-Indonesia-Newsletter-for-January-2014.pdf>

s. 47C(1)

s. 47C(1)

- It is also in the public domain that:
 - From 2000 onwards, Australia, the government of Indonesia and IOM were working together in Indonesia to combat people trafficking & irregular migration, see: <https://www.iom.int/news/un-migration-agency-facilitates-release-refugees-indonesian-detention-centres-0> .
 - Australia funds IOM to provide certain services including food, shelter, reception, Assisted Voluntary returns – see documents that were previously released for another FOI request FA 17/07/00010 (see **attachment 4**)
 - IOM refers migrants making protection claims to UNHCR (see **attachment 4**)
 - Certain other services are also provided by IOM staff, see this article: <http://www.refworld.org/docid/3c58099a1.html> particularly the “IOM plays lead role” section.

s. 47C(1), s. 33(a)(iii)

What I need from you

1. Please review the attached document at **attachment 3** and provide comments about the harm that would result from release of these sections. If you still wish to claim that the material is exempt, you may wish to provide further information in support of the existing exemptions that address the points I have raised above and the claims made by the FOI applicant in his review request.
2. The documents within the scope of the request constitute correspondence between the government of Australia and the IOM regarding the establishment of the RCA. None of the documents are correspondence between the governments of Australia and Indonesia about the RCA, documents about which were also specifically requested by the applicant and discussed in his review request. Can you confirm whether:
 - a. any documents exist in the Department’s possession that are correspondence between the governments of Australia and Indonesia about the establishment of the RCA? (I note that DFAT, which originally received the request, has advised that it does not hold any relevant documents.)
 - b. the steps you took to search for any relevant documents.
3. Please confirm whether **s. 22(1)(a)(iii)** agrees to be the authorised decision maker for this request. The alternative option is that **s. 47C(1)** (Acting Director, FOI) makes the decision.

As this request is already outside statutory timeframes, and you are also assisting us with a related internal review FA 17/08/00884-R1, we would appreciate a response to the above points by **Friday 25 May 2018**.

Regards,

s. 22(1)(a)(ii)

FOI Officer, Reviews Team

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii) [homeaffairs.gov.au](mailto:s.22(1)(a)(ii)@homeaffairs.gov.au)

For-Official-Use-Only

From: s. 22(1)(a)(ii)

Sent: 21 August 2017 9:27 AM

To: FOI <xxx@xxxxxx.xxx.xx>

Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii) [border.gov.au](mailto:s.22(1)(a)(ii)@border.gov.au)>; s. 22(1)(a)(ii) <s. 22(1)(a)(ii) [border.gov.au](mailto:s.22(1)(a)(ii)@border.gov.au)>; Robert MCGREGOR <s. 22(1)(a)(ii) [@BORDER.GOV.AU](mailto:s.22(1)(a)(ii)@BORDER.GOV.AU)>; s. 22(1)(a)(ii) <s. 22(1)(a)(ii) [BORDER.GOV.AU](mailto:s.22(1)(a)(ii)@BORDER.GOV.AU)>

Subject: RE: New FOI Request – Seeking documents – Asher HIRSCH - FA 17/08/00642

[DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi FOI

Please find attached the 'exchange of letters' between the Australian government and IOM which established the RCA. As per our response to similar request FA 17/06/00830 (attached), the rationale behind not releasing the document is the same:

Please see attached the original "exchange of letters" between DIBP (then DIMA) and IOM in 2000.

Please note there is a risk that the release of these documents could cause potential harm to the bilateral relationship with Indonesia, and Australia's national security, and an exemption should be considered based on these concerns.

Additionally, there are potential commercial concerns for IOM (a key service provider for the department on a large number of projects) should this document be released.

Happy to discuss further once your initial analysis is complete.

Kind regards

s. 22(1)(a)(ii)

Policy Officer, Indonesia and Timor-Leste Desk

Asia Branch | International Division

Released by Department of Home Affairs
under the Freedom of Information Act 1982

Policy Group
Department of Immigration and Border Protection
Telephone: s. 22(1)(a)(ii)
Email: s. 22(1)(a)(ii) [border.gov.au](mailto:s.22(1)(a)(ii)@border.gov.au)

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: Monday, 21 August 2017 8:34 AM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@border.gov.au>
Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@border.gov.au>
Subject: FW: New FOI Request – Seeking documents – Asher HIRSCH - FA 17/08/00642
[DLM=For-Official-Use-Only]

Hi s. 22(1)(a)(ii)

Another FOI for your action.

Many thanks,

s. 22(1)(a)(ii)

Sent with Good (www.good.com)

-----Original Message-----

From: FOI
Sent: Monday, August 21, 2017 08:02 AM AUS Eastern Standard Time
To: s. 22(1)(a)(ii)
Subject: New FOI Request – Seeking documents – Asher HIRSCH - FA 17/08/00642
[DLM=For-Official-Use-Only]

For-Official-Use-Only

Our references: SCR; FA 17/08/00642; ADF2017/87711

Good morning

For Action by Monday 28 August 2017

On 12 August 2017, the Department of Foreign Affairs and Trade received an FOI request from Asher HIRSCH, seeking access to:

‘Correspondence between Australia and Indonesia, and between Australia and the International Organisation for Migration (IOM), regarding the establishment of the Regional Cooperation Agreement (RCA). Correspondence may include letters, emails, phone call logs or transcripts or any other form of communication. Please limit this request to correspondence in 2000 and 2001.’

On 17 August 2017, the Department of Immigration and Border Protection agreed to accept transfer of this request under section 16(1)(b) of the FOI Act.

Your Division has been identified as holding documents that fall within the scope of this request, and we have discussed the request with s. 22(1)(a)(ii) of the Indonesia and Timor-Leste Desk. Could you please assign this request to the relevant business area for action.

If you consider that other business areas within the Department also hold documents that would be relevant to this request, could you please advise us as soon as possible.

Action required:

Documents identified:

- If the number of documents falling within the scope of the request is particularly large (i.e. over 300 pages), please let us know the approximate size of the request as soon as possible so that we can narrow/negotiate the size of the request with the applicant. i.e. please include a document count and the average number of pages; the types of documents captured would also be of assistance.
- Please forward any documents that fall within the scope of this request to foi@border.gov.au by **COB Monday 28 August 2017**.
- If there are any problems with meeting this deadline please advise me **as soon as possible**.
- Documents will be reviewed by the FOI Section and possible exemptions considered in consultation with the nominated decision maker. Please note that no information will be released to the FOI applicant without further consultation with you.
- When providing documents to FOI please advise us of any high level concerns; sensitivities; or any harm that would be caused, should the documents/specific information be released. i.e. harm to international relations. This information will be taken into consideration during the processing of the request.

No documents identified:

- If your area does not have any documents within the scope of this request, please let us know **as soon as possible**.

Assistance

Please find attached a checklist designed to assist your area in identifying documents and how to respond to the FOI Section. The advice provided in this checklist will assist in the processing of this FOI request.

The FOI Section is available to provide advice and assistance throughout this matter. If you have questions or require more information please do not hesitate to contact me on the details below.

Thank you for your assistance with processing this request.

Regards

With kind regards

s. 22(1)(a)(ii)

Acting Assistant Director, Freedom of Information Section
FOI, Privacy and Records Management Branch

Corporate Division
Department of Immigration and Border Protection

E: foi@border.gov.au

For-Official-Use-Only

Released by Department of Home Affairs
under the *Freedom of Information Act 1982*

From: [FOI Reviews mailbox](#)
To: [Robert MCGREGOR](#)
Cc: [s. 22\(1\)\(a\)\(ii\)](#) [FOI Reviews mailbox](#)
Subject: FOI internal review requests FA 17/06/00884 & FA 17/08/00642 - decision letters for review and signature [DLM=For-Official-Use-Only]
Date: Friday, 29 June 2018 5:05:04 PM
Attachments: [FA 17 06 00884 - HIRSCH - proposed internal review decision letter.docx](#)
[s. 22\(1\)\(a\)\(ii\)](#)
[FA 17 08 00642 - HIRSCH - proposed internal review decision letter.docx](#)
[s. 22\(1\)\(a\)\(ii\)](#)

For-Official-Use-Only

Dear Robert

[s. 22\(1\)\(a\)\(ii\)](#) has recommended you as the authorised decision maker for the two related FOI internal review requests, FA 17/06/00884 and FA 17/08/00642, for which [s. 22\(1\)\(a\)\(ii\)](#) was the original decision maker. Asher Hirsch is the FOI applicant for the two requests, which both relate to operations of the IOM in Indonesia. Both requests are now ready for decision.

Background

In **FA 17/06/00884**, the FOI applicant sought access to:

In 2012 the Australian Customs and Border Protection Service funded the International Organisation for Migration (IOM) to produce a document titled "Manual for the Coordinated Handling of People Smuggling: Interceptions, Investigations and Prosecutions in Indonesia".

I request under the Freedom of Information Act documents and files relating to the development of this document, including but not limited to:

- *The contract for the production of this document*
- *The cost of the production of this document*
- *Correspondence between the ACBPS and IOM relating to this document*
- *Correspondence between the ACBPS and other Australian Government departments relating to this document*

[s. 22\(1\)\(a\)\(ii\)](#)

In **FA 17/08/00642**, the FOI applicant sought access to:

'Correspondence between Australia and Indonesia, and between Australia and the International Organisation for Migration (IOM), regarding the establishment of the Regional Cooperation Agreement (RCA). Correspondence may include letters, emails, phone call logs or transcripts or any other form of communication. Please limit this request to correspondence in 2000 and 2001.'

The original decision was:

- that the identified documents (correspondence between Australia and the IOM) were the sole documents within the scope of the request
- to refuse access to the documents within scope on the grounds that they were exempt documents under sections 33(a)(iii) and 47 of the FOI Act.

Internal review decisions

For both requests, following consultations with International Policy Division, we are not proposing that the Department release any additional material; however for both cases we propose varying the decisions to include a decision to refuse access to all or some of the documents requested on the grounds that the documents could not be found.

For **FA 17/06/00884**, s. 22(1)(a)(ii)
s. 22(1)(a)(ii)

For **FA 17/08/00642**, we propose upholding the decision that the correspondence between Australia and the IOM are exempt under ss. 33(a)(iii) and s. 47(1)(b), and adding a decision that the other documents requested by the FOI applicant (correspondence between Australia and Indonesia) cannot be found (s. 24A(1)(b)(i) of the FOI Act).

Action required

Please review and make any required changes to the attached decision letters and sign once you are satisfied with the contents. Please also feel free to contact me if you need to discuss any of the contents.

As FOI proposes making a decision on the requests on 5 July 2018, we would appreciate it if you could sign off on the decisions by cob **Monday 2 July**. This will allow sufficient time for FOI to complete all required notifications.

Regards,

s. 22(1)(a)(ii)

FOI Officer, Reviews Team

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii) [homeaffairs.gov.au](mailto:s.22(1)(a)(ii)@homeaffairs.gov.au)

For-Official-Use-Only

From: s. 22(1)(a)(ii)
To: [FOI Reviews mailbox](#)
Cc: [Media Operations](#)
Subject: RE: FOI internal review requests FA 17/06/00884 & FA 17/08/00642 - decision letters for review and signature [DLM=For-Official-Use-Only]
Date: Monday, 2 July 2018 3:21:29 PM

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

Thanks for sending through.

Who is the FOI applicant (I assume it's the same applicant for both requests)?

- In terms of **FA17/06/00884**: s. 22(1)(a)(ii)
s. 22(1)(a)(ii)
s. 22(1)(a)(ii)
- In terms of **FA 17/08/00642**: no TPs required.

Thanks,

s. 22(1)(a)(ii)
A/g Director, Media Operations
Department of Home Affairs
Phone: s. 22(1)(a)(ii) M: s. 22(1)(a)(ii)
Media line: 02 6264 2244
E: s. 22(1)(a)(ii) [homeaffairs.gov.au](mailto:s. 22(1)(a)(ii)@homeaffairs.gov.au)

For-Official-Use-Only

From: FOI Reviews mailbox
Sent: Monday, 2 July 2018 12:30 PM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)@HOMEAFFAIRS.GOV.AU>
Cc: Media Operations <xxxxx@xxxxxxxxxxx.xxx.xx>
Subject: FOI internal review requests FA 17/06/00884 & FA 17/08/00642 - decision letters for review and signature [DLM=For-Official-Use-Only]

For-Official-Use-Only

Dear s. 22(1)(a)(ii)

I am seeking your advice about whether TPs would be required for the above two FOI requests which are due for internal review decision this Thursday.

No TPs were required for the original decisions and no documents were released in either decision. In the internal review decisions, we will be upholding the decisions not to release documents for either request, but will be varying the decisions to refuse access for other reasons.

Background


In **FA 17/06/00884**, the FOI applicant sought access to:

In 2012 the Australian Customs and Border Protection Service funded the International Organisation for Migration (IOM) to produce a document titled "Manual for the Coordinated Handling of People Smuggling: Interceptions, Investigations and Prosecutions in Indonesia".

I request under the Freedom of Information Act documents and files relating to the development of this document, including but not limited to:

- *The contract for the production of this document*
- *The cost of the production of this document*
- *Correspondence between the ACBPS and IOM relating to this document*
- *Correspondence between the ACBPS and other Australian Government departments relating to this document*

s. 22(1)(a)(ii)



In **FA 17/08/00642**, the FOI applicant sought access to:

'Correspondence between Australia and Indonesia, and between Australia and the International Organisation for Migration (IOM), regarding the establishment of the Regional Cooperation Agreement (RCA). Correspondence may include letters, emails, phone call logs or transcripts or any other form of communication. Please limit this request to correspondence in 2000 and 2001.'

The original decision was:

- that the identified documents (correspondence between Australia and the IOM) were the sole documents within the scope of the request
- to refuse access to these documents on the grounds that they were exempt documents under sections 33(a)(iii) and 47 of the FOI Act.

The internal review decision is:

- to uphold the decision that the correspondence between Australia and the IOM are exempt under ss. 33(a)(iii) and s. 47(1)(b), and to add a decision that the other

documents requested by the FOI applicant (correspondence between Australia and Indonesia) cannot be found (s. 24A(1)(b)(i) of the FOI Act).

Regards,

s. 22(1)(a)(ii)

FOI Officer, Reviews Team

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii) [homeaffairs.gov.au](mailto:s.22(1)(a)(ii)@homeaffairs.gov.au)

For-Official-Use-Only

For-Official-Use-Only

From: [Robert MCGREGOR](#)
To: [FOI Reviews mailbox](#)
Cc: [s. 22\(1\)\(a\)\(ii\)](#)
Subject: RE: FOI internal review requests FA 17/06/00884 & FA 17/08/00642 - decision letters for review and signature [DLM=For-Official-Use-Only]
Date: Monday, 2 July 2018 3:06:58 PM
Attachments: [Robert MCGREGOR 2018-07-02 15-03-18-740.pdf](#)
[Robert MCGREGOR 2018-07-02 15-03-35-443.pdf](#)

For-Official-Use-Only

Dear [s. 22\(1\)\(a\)\(ii\)](#)

Thank you very much for the draft letters and very comprehensive advice, which is appreciated.

I have signed both letters with nil substantive changes (although there was a missing "of" in FA17/08/00642 response which I inserted).

I have attached scanned, signed copies. Let me know if you want the originals.

Regards,

Robert McGregor
 Assistant Secretary Asia
 International Policy Division
 Policy Group
 Department of Home Affairs
 P: [s. 22\(1\)\(a\)\(ii\)](#) | M: [s. 22\(1\)\(a\)\(ii\)](#)
 E: [s. 22\(1\)\(a\)\(ii\)](#) [@homeaffairs.gov.au](mailto:s.22(1)(a)(ii)@homeaffairs.gov.au)

EA: [s. 22\(1\)\(a\)\(ii\)](#) P: [s. 22\(1\)\(a\)\(ii\)](#) E: [s. 22\(1\)\(a\)\(ii\)](#) [@homeaffairs.gov.au](mailto:s.22(1)(a)(ii)@homeaffairs.gov.au)

For-Official-Use-Only

From: FOI Reviews mailbox
Sent: Friday, 29 June 2018 5:05 PM
To: Robert MCGREGOR <[s. 22\(1\)\(a\)\(ii\)](#) [@HOMEAFFAIRS.GOV.AU](mailto:s.22(1)(a)(ii)@HOMEAFFAIRS.GOV.AU)>
Cc: [s. 22\(1\)\(a\)\(ii\)](#) <[s. 22\(1\)\(a\)\(ii\)](#) [HOMEAFFAIRS.GOV.AU](mailto:s.22(1)(a)(ii)@HOMEAFFAIRS.GOV.AU)>; FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>
Subject: FOI internal review requests [s. 22\(1\)\(a\)\(ii\)](#) & FA 17/08/00642 - decision letters for review and signature [DLM=For-Official-Use-Only]

For-Official-Use-Only

Dear Robert

[s. 22\(1\)\(a\)\(ii\)](#) has recommended you as the authorised decision maker for the two related FOI internal review requests, FA 17/06/00884 and FA 17/08/00642, for which [s. 22\(1\)\(a\)\(ii\)](#) was the original decision maker. Asher Hirsch is the FOI applicant for the two requests, which

both relate to operations of the IOM in Indonesia. Both requests are now ready for decision.

Background


In **FA 17/06/00884**, the FOI applicant sought access to:

In 2012 the Australian Customs and Border Protection Service funded the International Organisation for Migration (IOM) to produce a document titled "Manual for the Coordinated Handling of People Smuggling: Interceptions, Investigations and Prosecutions in Indonesia".

I request under the Freedom of Information Act documents and files relating to the development of this document, including but not limited to:

- *The contract for the production of this document*
- *The cost of the production of this document*
- *Correspondence between the ACBPS and IOM relating to this document*
- *Correspondence between the ACBPS and other Australian Government departments relating to this document*

s. 22(1)(a)(ii)



In **FA 17/08/00642**, the FOI applicant sought access to:

'Correspondence between Australia and Indonesia, and between Australia and the International Organisation for Migration (IOM), regarding the establishment of the Regional Cooperation Agreement (RCA). Correspondence may include letters, emails, phone call logs or transcripts or any other form of communication. Please limit this request to correspondence in 2000 and 2001.'

The original decision was:

- that the identified documents (correspondence between Australia and the IOM) were the sole documents within the scope of the request
- to refuse access to the documents within scope on the grounds that they were exempt documents under sections 33(a)(iii) and 47 of the FOI Act.

Internal review decisions

For both requests, following consultations with International Policy Division, we are not proposing that the Department release any additional material; however for both cases we propose varying the decisions to include a decision to refuse access to all or some of the documents requested on the grounds that the documents could not be found.

For **FA 17/06/00884**, s. 22(1)(a)(ii)



s. 22(1)(a)(ii)

For **FA 17/08/00642**, we propose upholding the decision that the correspondence between Australia and the IOM are exempt under ss. 33(a)(iii) and s. 47(1)(b), and adding a decision that the other documents requested by the FOI applicant (correspondence between Australia and Indonesia) cannot be found (s. 24A(1)(b)(i) of the FOI Act).

Action required

Please review and make any required changes to the attached decision letters and sign once you are satisfied with the contents. Please also feel free to contact me if you need to discuss any of the contents.

As FOI proposes making a decision on the requests on 5 July 2018, we would appreciate it if you could sign off on the decisions by cob **Monday 2 July**. This will allow sufficient time for FOI to complete all required notifications.

Regards,

s. 22(1)(a)(ii)

FOI Officer, Reviews Team

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii) [homeaffairs.gov.au](mailto:s.22(1)(a)(ii)@homeaffairs.gov.au)

For-Official-Use-Only

From: [FOI Reviews mailbox](#)
To: [Caroline STERNBERG](#); [Media Operations](#)
Cc: [Alicia WRIGHT](#); [Kylie SCHOLTEN](#); s. 22(1)(a)(ii) s. 22(1)(a)(ii) s. 22(1)(a)(ii) s. 22(1)(a)(ii) [DLO](#); s. 22(1)(a)(ii) s. 22(1)(a)(ii) s. 22(1)(a)(ii) [Ben WRIGHT](#); [Cheryl-anne MOY](#); s. 22(1)(a)(ii) s. 22(1)(a)(ii) s. 22(1)(a)(ii) [Robert MCGREGOR](#); [David WILDEN](#); [Linda GEDDES](#); s. 22(1)(a)(ii) s. 22(1)(a)(ii) s. 22(1)(a)(ii) s. 22(1)(a)(ii) [Lachlan COLOUHOUN](#)
Subject: FOI Alert - Pending FOI Internal review decisions - ASHER HIRSCH (REFUGEE COUNCIL OF AUSTRALIA) - FA 17/08/00642 & FA 17/06/00884 [DLM=For-Official-Use-Only]
Date: Tuesday, 3 July 2018 11:51:02 AM

For-Official-Use-Only

Our references: FA 17/06/00884 (ADF2017/68753) & FA 17/08/00642 (ADF2017/87711)
FOR INFORMATION ONLY

**SUBJECT: FREEDOM OF INFORMATION (FOI) REQUESTS – INTERNAL REVIEW DECISION
 ON ACCESS
 ASHER HIRSCH (REFUGEE COUNCIL OF AUSTRALIA)**

Good morning

The purpose of this email is to inform you that two internal review decisions will be issued to the FOI applicant on **Friday 6 July 2018**.

Requests for internal review of decision to refuse access

The applicant for the internal review requests is Asher Hirsch, Refugee Council of Australia.

Details of the original requests and the original access decision of the Department is included under 'Background' information. In summary the requests are for documents relating to the operations of the International Organisation for Migration in Indonesia.

Internal Review Decisions

The authorised decision maker for the internal review decisions is Robert McGregor, Assistant Secretary, Asia Branch, International Policy Division.

On 16 October 2017, the FOI applicant requested an internal review of the decision taken in FA 17/06/00884, disputing the Department's application of section 33(a)(iii) to the documents in scope.

The internal review decision is:

- to substitute the original decision with a decision that:
 - the document referenced in the original decision as exempt is irrelevant to the scope of the request; and
 - access has been refused on the grounds that no documents can be found [s. 24A(1)(b)(i) of the FOI Act].

On 16 October 2017, the FOI applicant requested an internal review of the decision taken in FA 17/08/00642, disputing the Department's application of sections 33(a)(iii) and 47(1)(b) to the documents in scope.

The internal review decision is:


- to uphold the original decision that the documents comprising correspondence between Australia and the IOM are exempt under ss. 33(a)(iii) and s. 47(1)(b)
- to refuse access to other documents requested by the FOI applicant (correspondence between Australia and Indonesia) on the grounds that documents cannot be found [s. 24A(1)(b)(i) of the FOI Act].

Background

FA 17/06/00884

FA 17/08/00642

Released by Department of Home Affairs
under the Freedom of Information Act 1982

<p>On 29 June 2017, the applicant requested access to the following documents:</p> <p><i>In 2012 the Australian Customs and Border Protection Service funded the International Organisation for Migration (IOM) to produce a document titled "Manual for the Coordinated Handling of People Smuggling: Interceptions, Investigations and Prosecutions in Indonesia".</i></p> <p><i>I request under the Freedom of Information Act documents and files relating to the development of this document, including but not limited to:</i></p> <ul style="list-style-type: none"> <i>- The contract for the production of this document</i> <i>- The cost of the production of this document</i> <i>- Correspondence between the ACBPS and IOM relating to this document</i> <i>- Correspondence between the ACBPS and other Australian Government departments relating to this document</i> 	<p>On 12 August 2017, the applicant requested access to the following documents:</p> <p><i>Correspondence between Australia and Indonesia, and between Australia and the International Organization for Migration (IOM), regarding the establishment of the Regional Cooperation Agreement (RCA). Correspondence may include letters, emails, phone call logs or transcripts or any other form of communication. Please limit this request to correspondence in 2000 and 2001.</i></p>
<p>On 19 September 2017, the Department made its original decision on the request, deciding:</p> <ul style="list-style-type: none"> that there was one document within the scope of the request: namely a s. 22(1)(a)(ii)  to refuse access to that document on the grounds that it was an exempt document under section 33(a)(iii) of the FOI Act. 	<p>On 19 September 2017, the Department made its original decision on the request, deciding:</p> <ul style="list-style-type: none"> that the identified documents (correspondence between Australia and the IOM) were the documents within the scope of the request to refuse access to these documents on the grounds that they were exempt documents under section 33(a)(iii) [Documents affecting international relations] and 47(1)(b) [Documents disclosing commercially valuable information] of the FOI Act.

Talking points

Media Operations has advised that Talking Points are not required in relation to these decisions.

Publication of the documents authorised for release

As no documents are being released, this decision will not be placed on the Department's FOI Disclosure Log.

If you have any questions in relation to the FOI processes please do not hesitate to contact me.

Regards

s. 22(1)(a)(ii)

Director FOI

Freedom of Information (FOI) Section | FOI and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii) [homeaffairs.gov.au](mailto:s.22(1)(a)(ii)@homeaffairs.gov.au)

Please note I am not in the office on Wednesday's

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under the *Freedom of Information Act 1982*