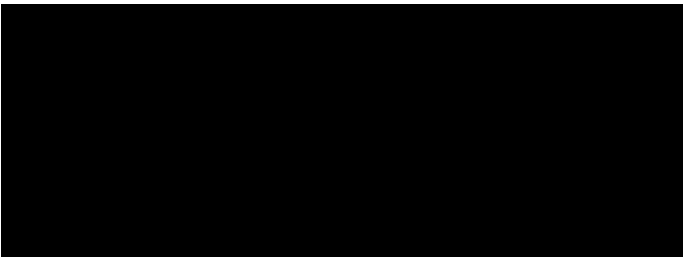




**In reply please quote:**

FOI Request: FA 16/07/00572  
File Number: ADF2016/33100

14 July 2016



Dear 

I refer to your email dated 7 July 2016 in which you request access to documents held by the Department of Immigration and Border Protection (the Department) under the *Freedom of Information Act 1982* (the FOI Act).

**1 Scope of Request**

You have requested access to the following documents held by the Department:

*'A copy of the documents which show what were the particulars of the goods that were the subject of the application for the Tariff Advice (TA) 17206400.'*

This letter is to notify you of the Department's decision on access to the documents subject to your request.

**2 Authority to make decision**

I am an officer authorised under section 23 of the FOI Act to make decisions to in respect of requests to access documents or to amend or annotate Departmental records.

**3 Relevant material**

In reaching my decision, I have considered the following:

- the terms of your request;
- the documents relevant to your request;
- the FOI Act;
- Guidelines published by the Office of the Australian Information Commissioner under s 93A of the FOI Act, and
- advice from Departmental officers with responsibility for matters relating to the documents to which you sought access.

#### **4 Decision on access**

The Department has identified one document that falls within the scope of your request. This document was in the possession of Department on 7 July 2016 when your FOI request was received.

The decision in relation to the document in the possession of the Department which comes within the scope of your request is to release the information contained in this documents that is relevant to your request in full.

#### **5 Reasons for Decision**

I am satisfied that I have been provided with all the documents that are relevant to your request.

My reasoning in relation to the application of each section to particular documents is set out below.

##### **5.1 Section 22 of the FOI Act – irrelevant to request**

Section 22 of the FOI Act provides that if giving access to a document would disclose information that would reasonably be regarded as irrelevant to the request, it is possible for the Department to prepare an edited copy of the document, modified by deletions, ensuring that the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request.

I have decided that parts of document which do not contain "*particulars of the goods that were the subject of the application for the Tariff Advice (TA) 17206400*" would disclose information that could reasonably be regarded as irrelevant to your request, and have therefore prepared an edited copy of the document, with the irrelevant material deleted pursuant to section 22(1)(a)(ii) of the FOI Act.

The remainder of the document has been released to you as it is relevant to your request.

##### **5.2 Section 24A of the FOI Act – Requests may be refused if documents cannot be found, do not exist or have not been received**

The relevant Records Disposal Authority provides that documents relating to Tariff Advices are destroyed 7 years after action completed. I note that the Tariff Advice you have referred to is 11 years old. Whilst certain details of the Tariff Advice are retained in the Department's computer systems, any documents, including any Illustrative Descriptive Material, provided in support of the application for the Tariff Advice no longer exist.

As such, the Department has no further records to produce in relation to your request.

#### **6 Legislation**

I have attached an extract of the exemption provisions of the FOI Act for your information at **ATTACHMENT A**.

## 7 Your Review Rights

### Internal Review

If you disagree with this decision, you have the right to apply for an internal review by the Department of this decision. Any request for internal review must be provided to the Department within 30 days of you being notified of the decision. Where possible please attach reasons why you believe a review of the decision is necessary. The internal review will be carried out by an officer other than the original decision maker and the Department must make a review decision within 30 days. Applications for review should be sent to:

Freedom of Information Section  
Department of Immigration and Border Protection  
PO Box 25  
BELCONNEN ACT 2617

OR

By email to: [foi@border.gov.au](mailto:foi@border.gov.au)

### Review by the Office of the Australian Information Commissioner

You may apply directly to the Office of the Australian Information Commissioner (OAIC) for a review of this decision. You must apply in writing within 60 days of this notice. For further information about review rights and how to submit a request for a review to the OAIC, please see Fact Sheet 12 "Freedom of information – Your review rights", available online at <http://www.oaic.gov.au/freedom-of-information/foi-reviews>.

## 8 Making a Complaint

You may complain to the Australian Information Commissioner about action taken by the Department in relation to your request.

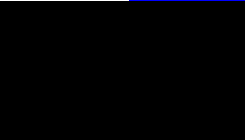
Your enquiries to the Australian Information Commissioner can be directed to:

Phone 1300 363 992 (local call charge)  
Email [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

There is no particular form required to make a complaint to the Australian Information Commissioner. The request should be in writing and should set out the grounds on which it is considered that the action taken in relation to the request should be investigated and identify the Department of Immigration and Border Protection as the relevant agency.

## 9 Contact

Should you wish to discuss this decision, please do not hesitate to contact the FOI Section at [foi@border.gov.au](mailto:foi@border.gov.au).



**FOI Officer | Freedom of Information Section  
Information Management Branch  
Corporate Services Division  
Department of Immigration and Border Protection**

## ATTACHMENT A

### Relevant Legislation

#### Section 22 - Access to edited copies with exempt or irrelevant matter deleted

- (1) This section applies if:
  - (a) an agency or Minister decides:
    - (i) to refuse to give access to an exempt document; or
    - (ii) that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access; and
  - (b) it is possible for the agency or Minister to prepare a copy (an **edited copy**) of the document, modified by deletions, ensuring that:
    - (i) access to the edited copy would be required to be given under section 11A (access to documents on request); and
    - (ii) the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and
  - (c) it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:
    - (i) the nature and extent of the modification; and
    - (ii) the resources available to modify the document; and
  - (d) it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.

#### *Access to edited copy*

- (2) The agency or Minister must:
  - (a) prepare the edited copy as mentioned in paragraph (1)(b); and
  - (b) give the applicant access to the edited copy.

...

#### Section 24A - Documents cannot be found, do not exist or have not been received

##### *Document lost or non-existent*

- (1) An agency or Minister may refuse a request for access to a document if:
  - (a) all reasonable steps have been taken to find the document; and
  - (b) the agency or Minister is satisfied that the document:
    - (i) is in the agency's or Minister's possession but cannot be found; or
    - (ii) does not exist.

##### *Document not received as required by contract*

- (2) An agency may refuse a request for access to a document if:
  - (a) in order to comply with section 6C, the agency has taken contractual measures to ensure that it receives the document; and
  - (b) the agency has not received the document; and
  - (c) the agency has taken all reasonable steps to receive the document in accordance with those contractual measures.