

Department of Foreign Affairs and International Trade

Status report on access requests in a deemed-refusal situation

1. BACKGROUND

Every department reviewed has been assessed against the following grading standard:

| % of Deemed Refusals | Comment | Grade |
|----------------------|---------------------------|-------|
| 0-5 percent | Ideal compliance | A |
| 5-10 percent | Substantial compliance | B |
| 10-15 percent | Borderline compliance | C |
| 15-20 percent | Below standard compliance | D |
| More than 20 percent | Red alert | F |

This report reviews the continued progress of the Department of Foreign Affairs and International Trade (DFAIT) to maintain at least substantial compliance with the time requirements of the *Access to Information Act*, since the previous report. In addition, this report contains information on the status of the recommendations made in the Status Report of January 2004.

2. COMPLIANCE HISTORY

In early 1999, the Office of the Information Commissioner issued a Report Card on DFAIT's compliance with the statutory time requirements of the *Access to Information Act*. The Report Card contained a number of recommendations on measures that could be taken to reduce the number of requests in a deemed-refusal situation. In the 1999 Report Card, the department received a red alert grade of "F" with a 34.9% request to deemed-refusal ratio for access requests received from April 1 to November 30, 1998.

In December 1999, the review assessed the status of the recommendations made in the Report Card and made further recommendations for measures to reduce the number of requests in a deemed-refusal situation. At that time, the statistics showed that, from April 1 to November 30, 1999, the deemed-refusal ratio for access requests improved to 20.6%.

The progress in reducing the number of requests in a deemed-refusal situation regressed for the reporting period in 2000-2001, the deemed-refusal ratio having moved back to 29.3%, or a red alert grade of "F" while the fiscal year to deemed-refusal ratio increased to 31.3%.

The January 2002 report noted that DFAIT had made substantial progress in meeting the time requirements of the *Access to Information Act* for the period of April 1 to November 30, 2001. The new request to deemed-refusal ratio improved to 17.7%, a grade of "D". Subsequently, the percentage of requests in a deemed-refusal situation increased to 22% for the fiscal year 2001-2002, which constituted another grade of "F".

The January 2003 report indicated that the DFAIT continued to make progress in reducing the number of requests that are answered beyond the time requirements of the *Access to Information Act*. DFAIT had achieved a grade of “B” with a new request to deemed-refusal ratio of 7.9% for the period of April 1 to November 30, 2002. This grade represented substantial progress by the department, although this figure fell slightly for the full fiscal 2002-2003 to 10.1%, a grade of “C”.

In the January 2004 Status Report, it was noted that DFAIT was unable to maintain the “B” grading of the past year, regressing with a new request to deemed-refusal ratio of 17%, for a grade of “D”, denoting below standard compliance.

3. CURRENT STATUS

For the reporting period April 1 to November 30, 2004, those requests carried over from the previous year, as well as the number of requests already in a deemed-refusal status on April 1, were taken into consideration. As a result, the department’s performance for April 1 to November 30, 2004, was 28.8%, which is a grade of “F” and red alert. Since this is the first year that the figures were calculated differently, the following will show the compliance levels utilizing both the previous and current formulas for last year’s and this year’s status reports.

| Previous Formula Apr 1 – Nov 30, 2003 | Current Formula Apr 1 – Nov 30, 2003 |
|--|---|
| 17% | 15% |

| Previous Formula Apr 1 – Nov 30, 2004 | Current Formula Apr 1 – Nov 30, 2004 |
|--|---|
| 20.8% | 28.8% |

As was pointed out in last year’s Status Report, the ATIP Director accepted a position elsewhere in the department and the Assistant Director left the division. It was further pointed out that, not only were the two managerial positions vacant, which necessitated two senior analysts to step in to fill those positions thereby reducing their output, there were also staff losses at the analyst level. The current Acting ATIP Director is on assignment to DFAIT from another department, and a new Deputy Director has been hired. There are now a total of 13 FTEs as well as 3 consultants working in the ATIP office. The ATIP Director stated that the ATIP office is currently assessing its processes and procedures. As a result, a number of organizational changes have followed including the staffing of 2 team leaders. This was done in order to have a more coordinated effort and to improve quality, efficiency and establish better work priorities.

Senior management has embraced the use of technology to process access requests, and the ATIP Division is looking at the possibility of purchasing ATIPimage. There are also

a number of security and information management issues that are currently being addressed by the department and an analysis is being conducted with respect to the sharing of information. In this regard, the Maher Arar Inquiry has greatly raised the profile of the ATIP Division and the administration of the *Access to Information Act* within the department.

At the present time, OPIs provide records to the ATIP Division, in response to access requests, without doing any review of the information. The ATIP Division does the first review and then returns the records to the OPI for final review and recommendations. The ATIP Director stated that, although this adds another step to the process, this is preferred for the time being. However, this process may change in the future as efficiencies may be gained. The ATIP Division also intends to do more work up front such as, contacting requesters more frequently to clarify requests. In addition, more training will be provided for OPIs and Communications processes will be streamlined. In 2005-2006, the ATIP Director plans to continue training on roles and responsibilities with respect to the *Access to Information Act*. In addition, the ATIP Director is considering the development of ATIP liaison officers within main OPIs in the department to coordinate and manage access requests more effectively. The ATIP office has provided ATIP awareness briefing sessions to new employees, honorary consuls, and departmental staff both rotational and non rotational.

The department is currently dealing with various issues involving the separation of Foreign Affairs and International Trade. For the time being, the ATIP office is processing requests for all of DFAIT.

4. FURTHER RECOMMENDATIONS

Following a presentation made by the ATIP Division management, senior management agreed to communicate to OPIs that providing records for access requests is a priority.

Recommendation #1

That senior management communicate to OPIs that providing records for access requests in a timely manner is a priority of the department.

In order to achieve an acceptable level of compliance with the time requirements of the *Access to Information Act*, management of ATIP plans to conduct a study of the ATI process within the department to identify bottlenecks and duplication.

Recommendation #2

That a study be conducted to identify any bottlenecks, duplication and any other deficiencies in the ATI process and that appropriate remedial action be taken.

In July 2004, ATIP training was provided to Foreign Service Officers. It is the goal of the ATIP Division to provide training for all OPIs in 2005-2006.

Recommendation #3

For the period 2005-2006, all OPIs to receive training regarding their roles and responsibilities with respect to the *Access to Information Act*.

The department should be able to improve its compliance to the time requirements of the *Access to Information Act*.

Recommendation #4

That DFAIT attain substantial compliance with the time requirements of the *Access to Information Act* for 2005-2006.

5. STATUS OF 2004 RECOMMENDATIONS

The following recommendations were made to DFAIT:

Previous Recommendation #1

DFAIT conduct a staffing/funding review of the ATIP office with a view to increasing resources as required.

Action Taken: The Office of the Inspector General at DFAIT conducted an ATIP function review. As a result, the ATIP office has prepared a draft report for senior management containing recommendations for increased financial and human resources.

Previous Recommendation # 2a

Senior management at DFAIT confirm a commitment to maintain and build on substantial compliance with the statutory time requirements of the *Access to Information Act* by communicating to OPI's that records for access requests is a priority of the department.

Action Taken: The ATIP Division did a presentation to senior management and senior management agreed that communicating to OPIs that the provision of records for access requests is a priority. The ATIP Director meets regularly with senior management (DG's and Directors) and has received positive feedback and support. It is expected that senior management will be communicating with OPIs on this matter in the new fiscal year.

Previous Recommendation # 2b

DFAIT review the ATIPflow process for file control and data entry to determine how OPI information on allocated versus actual time taken to retrieve records can be routinely reported to OPI's and senior management.

Action Taken: No action was taken; however, this will be completed in 2005-2006. Unfortunately, events like the Tsunami disaster greatly affected various OPIs in the department in terms of their ability to respond to access requests in a timely manner. OPIs impacted by the Tsunami needed to be left alone during the immediate crisis period.

The department is currently addressing the problem of records management and is planning to centralize more of its records and improve its electronic information systems. This will better enable the retrieval of information. A system similar to the Records Document Information Management System (RDIMS), referred to as Infobank, will be put in place by March 2006.

Previous Recommendation # 3

DFAIT set an objective of achieving at least substantial compliance with the time requirements of the *Access to Information Act* for 2004-2005.

Action Taken: DFAIT did not attain substantial compliance. As already noted, this was attributed to all the changes taking place, not only in the department as a whole, but in the ATIP Division itself. The ATIP Division has submitted a business plan to senior management addressing the various concerns and needs of the division. Senior management's support of the business plan will go a long way towards achieving acceptable compliance with the *Access to Information Act*.

6. QUESTIONNAIRE AND STATISTICAL REPORT

| Questionnaire for Statistical Analysis Purposes in relation to official requests made under the <i>Access to Information Act</i> | | | |
|--|---|----------------------------|----------------------------|
| Part A: Requests carried over from the prior fiscal period. | | Apr. 1/03 to Mar 31/04 | Apr. 1/04 to Nov. 30/04 |
| 1. | Number of requests carried over: | 213 | 141 |
| 2. | Requests carried over from the prior fiscal — in a deemed-refusal situation on the first day of the new fiscal: | 26 | 61 |
| Part B: New Requests — Exclude requests included in Part A. | | Apr. 1/03 to Mar. 31/04 | Apr. 1/04 to Nov. 30/04 |
| 3. | Number of requests received during the fiscal period: | 526 | 255 |
| 4.A | How many were processed <i>within</i> the 30-day statutory time limit? | 248 | 88 |
| 4.B | How many were processed beyond the 30-day statutory time limit <i>where no extension was claimed?</i> | 11 | 5 |
| 4.C | How long after the statutory time limit did it take to respond <i>where no extension was claimed?</i> | | |
| | 1-30 days: | 7 | 2 |
| | 31-60 days: | 2 | 2 |
| | 61-90 days: | 0 | 1 |
| | Over 91 days: | 2 | 0 |
| 5. | How many were extended pursuant to section 9? | 242 | 134 |
| 6.A | How many were processed <i>within</i> the extended time limit? | 80 | 46 |
| 6.B | How many exceeded the extended time limit? | 55 | 14 |
| 6.C | How long after the expiry of the extended deadline did it take to respond? | | |
| | 1-30 days: | 21 | 8 |
| | 31-60 days: | 13 | 3 |
| | 61-90 days: | 9 | 1 |
| | Over 91 days: | 12 | 2 |
| 7. | As of November 30, 2004, how many requests are in a deemed-refusal situation? | | 34 |