

# 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%	Ideal compliance	A
5-10%	Substantial compliance	B
10-15%	Borderline compliance	C
15-20%	Below standard compliance	D
More than 20%	Red alert	F

This report reviews the Department of Foreign Affairs and International Trade's (DFAIT) progress in attaining ideal 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 2005.

### 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 from April 1 to November 30 in 2000-2001, the deemed-refusal ratio having moved back to 29.3%, or a red alert grade of "F" while the full 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 a grade of "F".

The January 2003 report indicated that 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.

In the 2005 Report Card, the department received a substantial compliance alert grade of “F” with a 28.8% request to deemed-refusal ratio for requests received from April 1 to November 30, 2004. This was the first year, requests carried over from the previous year, and the number of requests already in a deemed-refusal status on April 1, were taken into consideration.

For fiscal year 2004-2005, DFAIT received a grade of “F”, with a 42.0% request to deemed-refusal ratio.

### **3. CURRENT STATUS**

For this reporting period, requests carried over from the previous year, and the number of requests already in a deemed-refusal status on April 1, were also taken into consideration. As a result, for the reporting period April 1 to November 30, 2005, the department’s request to deemed-refusal ratio was 60.1%, a grade of “F”.

The Deputy Minister (USS) addressed the failing grade by stating that this level of performance was unacceptable and that measures would be taken to improve the department’s rating. In fact, they have devoted some \$500,000 in new resources and developed a comprehensive Business Plan to bring the department into ideal compliance with response deadlines.

As a result of its persistent problems in respecting deadlines imposed by the *Access to information Act*, DFAIT conducted a review of the ATIP functions, which was conducted by the Evaluation Division (ZIE) of the Office of the Inspector General. The Business Plan also included an increase of staff by 15 person-years over the next two years, along with a number of initiatives to support the overall ATIP function.

Of special significance was the purchase, in March 2005, of the imaging software *ATIPImage*, which will give the department the capacity to process records electronically. Its implementation will provide an opportunity to re-engineer the ATIP process for greater efficiency and increase the department’s processing capacity and quality of case management.

Recognizing the need for managers to better understand ATIP legislation and their own responsibilities in the Business Plan, the department will develop a comprehensive ATIP awareness training program for delivery starting in the fall 2006. ATIP awareness training was delivered to new Directors, new Foreign Service Officers and employees through the department's Security of Information modules. Ad hoc training was also give to sectors/divisions by invitation. Approximately 200 employees attended this training in 2005-06.

#### **4. RECOMMENDATIONS**

Because of the factors described in this report, DFAIT was not able to achieve ideal compliance with the time requirements of the *Access to Information Act*.

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##### ***Recommendation #1***

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**That DFAIT attain ideal compliance and a grade of "A" by March 31, 2007.**

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##### ***Recommendation #2***

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**That DFAIT address the information management problems with a view to retrieve information more effectively.**

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The current status of information management at DFAIT is problematic. Information is decentralized, fragmented, and spread over branches at headquarters and missions overseas. Also, this information is mostly held in paper format, which can cause OPIs and the ATIP Office to spend a significant amount of time looking for requested records. In addition, the current situation does not enable the department to demonstrate that it is providing all of the requested records.

The problem is caused by a combination of factors. The department operates mostly in a hard copy environment, with paper documents put in files. At the same time, because of the fact that many of the officers in OPIs are rotational, there is a lack of corporate memory at the division level, making retrieval of information even more difficult.

The decision by the government to separate the department into two departments in December 2003, and the decision of the new government to reintegrate them in February 2006, have contributed to making the present information management situation even more difficult. Branches and sub-units of the department are identified through the use of symbols which, unfortunately, were subject to massive changes because of the reorganization. As a result, it is often difficult to find out which part of the department a document originates, contributing to delays in processing.

##### ***Recommendation #3***

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**That DFAIT's ATI Office prepare a mandatory training program for all officers and senior managers, including Assistant Deputy Ministers and Deputy Ministers.**

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The ATI Office is in the position to identify where ATI training is required in the department. Training requirements can be identified from daily interaction with OPIs, dealing with complaints under the *Access to Information Act* and dealing with briefings on policy and other issues involving the Act. The training requirements should be prioritized to strategically plan where most value will be derived from ATI training. The department Business Plan recognizes the need for managers to better understand ATIP legislation and their own responsibilities and commits to provide comprehensive ATIP awareness training program for delivery starting in the fall 2006.

***Recommendation #4***

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**Senior Management oversee the development of an access to information vision that can be communicated to DFAIT employees.**

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Continued improvement in performance is unlikely without more upper management participation and leadership. The Deputy Minister must take a hands-on role by receiving weekly reports showing the number of requests in a deemed-refusal situation, where the delays are occurring, and what remedial action is being taken or proposed. The Deputy Minister should directly oversee the ATI Improvement Plan under which DFAIT will come into ideal compliance with the time requirements of the *Access to Information Act*.

Until Senior Management is actively engaged in the measures to identify and improve the factors that lead to requests in a deemed-refusal situation in the department, it will be difficult to come into ideal compliance with the Act's timelines. Senior Management should understand the nature of the problem and be involved in monitoring the success of the plan to reduce the number of requests in deemed-refusal situation.

## **5. STATUS OF 2005 RECOMMENDATIONS**

The following recommendations were made to support DFAIT's continuing efforts to process requests within the time requirements of the *Access to Information Act*:

***Previous Recommendation #1***

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

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**Action Taken:** Senior Management has made a clear commitment to making compliance with the *Access to Information Act* a reality within the department. In addition, the department has adopted an aggressive strategy to respond to the existing delay situation. According to the department, this strategy will produce positive results in the short term.

***Previous Recommendation #2***

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

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**Action Taken:** A consultant has been retained to conduct a review of the ATI process and a draft report has been produced to the department proposing remedial action to be taken.

***Previous Recommendation #3***

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

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**Action Taken:** The department will develop an ATIP awareness training program for delivery starting in the fall 2006. ATIP awareness training was delivered to new Directors, new Foreign Service Officers and employees through the Security of Information modules. Ad hoc training was also given to sectors/divisions by invitation. Approximately 200 employees attended this training in 2005-2006.

***Previous Recommendation #4***

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**That DFAIT attain ideal compliance with the time requirements of the *Access to Information Act* by March 31, 2007.**

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**Action Taken:** Although DFAIT did not attain substantial compliance, the ATIP office undertook a very aggressive strategy to deal with the backlog, while addressing the active requests, all at the same time. By year end, 153 delay complaints against the department were completed or are being processed in accordance with specific commitment dates. In the short term, the ATIP office relied heavily on the assistance of ATIP consultants, while addressing the human resources shortage identified.

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

<b>Questionnaire for Statistical Analysis Purposes in relation to official requests made under the <i>Access to Information Act</i></b>			
<b>Requests carried over from the prior fiscal period.</b>		<b>Apr. 1/04 to Mar. 31/05</b>	<b>Apr. 1/05 to Nov. 30/05</b>
<b>1.</b>	Number of requests carried over:	108	163
<b>2.</b>	Requests carried over from the prior fiscal — in a deemed refusal situation on the first day of the new fiscal:	46	108
<b>New Requests — Exclude requests included in Part A.</b>		<b>Apr. 1/04 to Mar. 31/05</b>	<b>Apr. 1/05 to Nov. 30/05</b>
<b>3.</b>	Number of requests received during the fiscal period:	402	286
<b>4.A</b>	How many were processed <i>within</i> the 30-day statutory time limit?	249	76
<b>4.B</b>	How many were processed beyond the 30-day statutory time limit <i>where no extension was claimed?</i>	31	74
<b>4.C</b>	How long after the statutory time limit did it take to respond <i>where no extension was claimed?</i>		
	1-30 days:	20	32
	31-60 days:	5	18
	61-90 days:	2	7
	Over 91 days:	4	17
<b>5.</b>	How many were extended pursuant to section 9?	170	27
<b>6.A</b>	How many were processed <i>within</i> the extended time limit?	63	4
<b>6.B</b>	How many exceeded the extended time limit?	29	1
<b>6.C</b>	How long after the expiry of the extended deadline did it take to respond?		
	1-30 days:	13	0
	31-60 days:	4	1
	61-90 days:	6	0
	Over 91 days:	6	0
<b>7.</b>	As of November 30, 2005, how many requests are in a deemed-refusal situation?	<b>87</b>	

## **EXCERPT FROM DEPUTY MINISTER'S RESPONSE TO STATUS REPORT**

“As you are aware, the Department has been advised informally that it can expect to receive an “F grade” for its performance during the 2005-2006 fiscal year. That being said, you are also aware of the steps which have been undertaken, beginning with a third-party review of the ATIP function followed by the development of a comprehensive business plan, to put the Department on track to meet its goal of reaching an “A grade” for the 2007-08 fiscal year.

...The implementation of the business plan has seen the allocation of an additional fifteen FTE's to the ATIP Division and the purchase of *ATIPImage* software for a total cost of nearly \$500,000.

...In the coming year we will be working to regularize the status of the fifteen new FTE's by staffing these positions with indeterminate employees rather than consultants. Training and improved physical work conditions will be provided to these new employees, as well as to current employees, in order to enhance our ability to attract and retain ATIP analysts. We will also be instituting new and more sophisticated tracking systems to ensure that the need for extensions and consultations with other government departments and agencies is determined early in the process following the receipt of an ATIP request. Senior management in the Department is being provided with regular statistical reports on performance, including a clear identification of areas where shortcomings are occurring.”