



**Department of Foreign Affairs & International Trade**

**Report Card  
On  
Compliance with Response Deadlines Under the  
*Access to Information Act***

**— Information Commissioner of Canada —**

**MARCH 1999**

# Foreign Affairs and International Trade (FAIT)

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# Foreign Affairs and International Trade (FAIT)

## A. REPORT—March 1999

### I. Glossary of Terms

#### **ATI Coordinator:**

Each institution is required, by Treasury Board policy, to designate an official known as the Access to Information Coordinator. The Access to Information Coordinator is responsible for receiving access requests. Coordinators may also be delegated authority, from the heads of institutions, to levy fees, claim extensions, give notices and invoke exemptions. The scope of a Coordinator's authority varies from institution to institution.

#### **ATIPFlow System:**

ATIP*flow* is a case management and workflow system, developed by MPRSYS Inc. It was designed for use in an access to information and privacy environment.

#### **Complaint Findings:**

- Well-founded—Complaints well-founded but not resolved, where the Commissioner sought consent from the requester to pursue the matters in Federal Court.
- Resolved—Well-founded complaints resolved by remedial action satisfactory to the Commissioner.
- Not Substantiated—Complaints considered not to be well-founded.
- Discontinued—Complaints discontinued, on request from the complainant, prior to a final resolution of the case.

#### **Deemed Refusal:**

10.(3) Where the head of a government institution fails to give access to a record requested under this Act or a part thereof within the time limits set out in this Act, the head of the institution shall, for the purposes of this Act, be deemed to have refused to give access.

#### **Extension:**

9. (1) The head of a government institution may extend the time limit set out in section 7 or subsection 8(1) in respect of a request under this Act for a reasonable period of time, having regard to the circumstances, if
- (a) the request is for a large number of records or necessitates a search through a large number of records and meeting the original time limit would unreasonably interfere with the operations of the government institution,
  - (b) consultations are necessary to comply with the request that cannot reasonably be completed within the original time limit, or
  - (c) notice of the request is given pursuant to subsection 27(1) by giving notice of the

extension and, in the circumstances set out in paragraph (a) or (b), the length of the extension, to the person who made the request within thirty days after the request is received, which notice shall contain a statement that the person has a right to make a complaint to the Information Commissioner about the extension.

### **Notice of Extension to Information Commissioner:**

9. (2) Where the head of a government institution extends a time limit under subsection (1) for more than thirty days, the head of the institution shall give notice of the extension to the Information Commissioner at the same time as notice is given under subsection (1).

**OPI:** Office of primary interest or the location in the department responsible for the subject matter to which the access request relates.

### **Pending:**

Unfinished requests or complaints.

- Pending Previous—Requests or complaints that were unfinished at the close of the previous fiscal year, and thus carried forward into the reporting period (the fiscal period indicated on the pie chart).
- Pending at year-end—Requests or complaints that are unfinished at the end of the reporting period (the subject fiscal year), which will be carried into the next fiscal period.

### **Processing Time:**

The time taken to complete each stage in the access process, from the date the access request is received to the time a final response is given.

### **3<sup>rd</sup> Party:**

“Third party,” in respect of a request for access to a record under this Act, means any person, group of persons or organization other than the person that made the request or a government institution.

### **Treasury Board Guidelines:**

“The *Access to Information Act* is based on the premise that the head of each government institution is responsible for ensuring that their institution complies with the Act, and for making any required decisions. There is also provision for a designated Minister to undertake the government-wide co-ordination of the administration of the Act. The President of the Treasury Board fulfils this role.

“One of the statutory responsibilities of the designated Minister is to prepare and distribute to government institutions directives and guidelines concerning the operation of the *Access to Information Act* and regulations. The policy contained in this volume constitutes the directives referred to in the Act, and along with the Act and the Regulations establishes the minimum requirements for subject institutions. The guidelines are intended to provide an interpretation of the requirements and guidance on the application of the Act, the Regulations and the

policy.”

## II. Background

In his 1997-98 Annual Report to Parliament, the former information commissioner raised concerns about FAIT's poor performance in meeting the deadlines set out in the *Access to Information Act* for responding to requests for information.

This report card contains the results of the Information Commissioner's review of FAIT's performance during the period April 1, 1998 to November 30, 1998.

## III. Grading Standard

Since Canadians have a right to timely access to information (i.e. 30 days or within extended times under specified conditions), a delayed response is equivalent to a denied response. Parliament articulated this "timeliness" requirement in subsection 10(3) of the Act, which states:

10.(3) Where the head of a government institution fails to give access to a record requested under this Act or a part thereof within the time limits set out in this Act, the head of the institution shall, for the purposes of this Act, be deemed to have refused to give access.

As a result, the Information Commissioner has adopted the following standard as being the best measure of a department's compliance with response deadlines: percentage of requests received which end as deemed refusals. FAIT is, in this report card, assessed against the following grading standard:

<b>% of Deemed Refusals</b>	<b>Comment</b>	<b>Grade</b>
0-5 per cent	Ideal compliance	A
5-10 per cent	Substantial compliance	B
10-15 per cent	Borderline compliance	C
15-20 per cent	Below standard compliance	D
More than 20 per cent	Red alert	F

On this grading scale, FAIT rates **F\***. Its performance is unacceptable. [This fiscal year to November 30, the request to deemed-refusal ratio is: 252:88=34.9% (Based strictly on new requests.) Of note, this ratio is significantly down from the 1997-98 ratio of 316:266=84.2%]

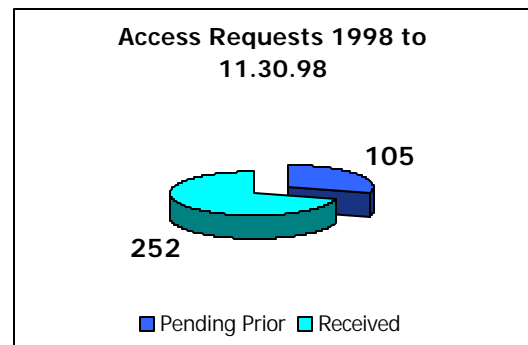
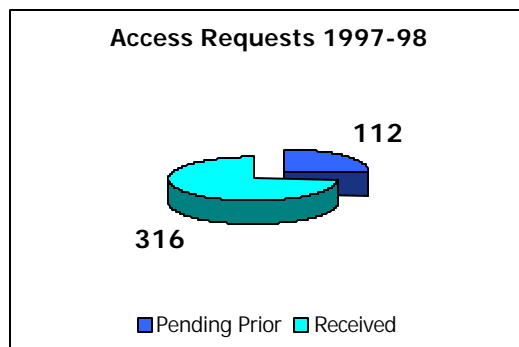
\* This grade solely reflects on the department's performance in meeting response deadlines. It should not be taken as a measure of the department's performance in the application of exemptions. In general, FAIT applies the exemption provisions of the act professionally and with restraint.

What follows is an analysis of the statistical data, an explanation of the reasons for the performance record, a description of the steps being taken by management to improve performance and a set of recommendations to assist the department in this regard.

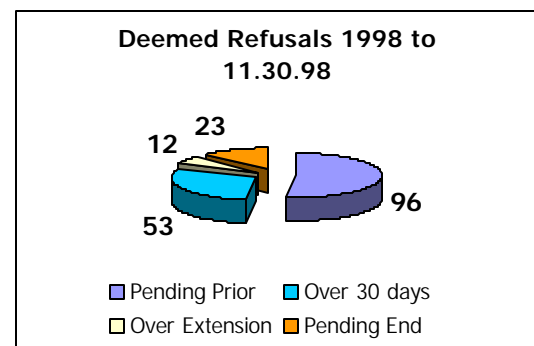
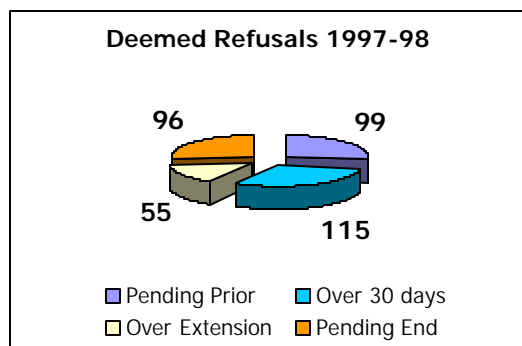
Attached to the report (Part B) are the various questionnaires and responses which formed the basis for the grading, observations and recommendations in this report card.

## IV. Statistical Information

### 1. Requests



The charts above present a good visual picture of FAIT's significant request backlog.



At the outset of the 1997-98 fiscal year, FAIT's Access to Information office had 112 unfinished requests—99 (88.4%) already in a deemed-refusal situation. The 1998-99 fiscal started much the same with 105 outstanding requests—96 (91.4%) in a deemed-refusal situation. Considering the fact that 316 new requests were received in the 1997-98 fiscal—252 to November 30 this fiscal, these (Pending Prior) deemed refusals amount to approximately 1/3 of the yearly intake. Non-compliance considerations aside, this backlog is burdensome to the ATI office and must be eliminated.

The time taken to complete new requests is equally distressing.

- In 1997-98, processing times for 115 requests completed beyond the 30-day statutory limit—without an extension were:
  - 46 (40%) took an additional 1-30 days to complete,
  - 30 (26%) took between 31 to 90 days, and
  - 39 (33.9%) were completed in over 90 days.
  
- In 1998 to November 30, 1998, additional processing times for 53 non-extended new requests were:
  - 31 (58.5%) took an additional 1-30 days to complete
  - 15 (28.3%) took between 31 to 90 days, and
  - 7 (13.2%) were completed in over 90 days

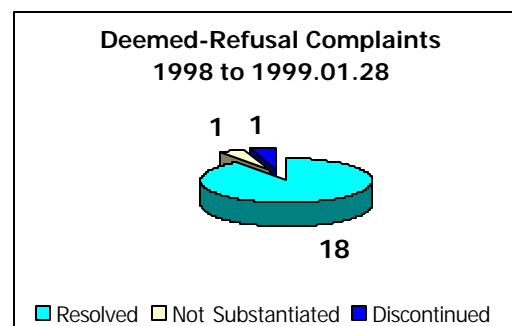
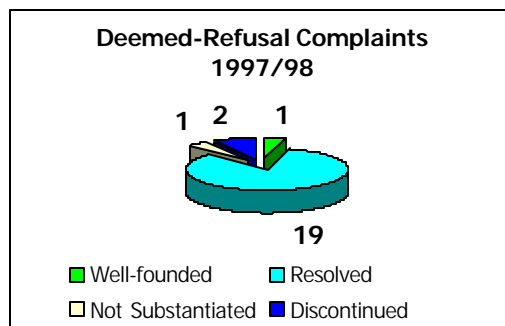
(This does not include completion figures for the deemed-refusal backlog, since the self-audit questionnaire did not ask FAIT's office to provide that information.)

For extensions taken and not met, the breakdowns are similar.

- In 1997-98, 55 (69.6%) exceeded the extension of time:
  - 4 (7.3%) took an additional 1-30 days
  - 20 (36.4%) took 31-90 more days, and
  - 31 (56.4%) required more than 90 additional days
  
- For the current fiscal (to November 30) of the 19 time extensions:
  - 12 (63.2%) exceeded the extension
  - 8 (66.7%) took an additional 1-30 days, and
  - 4 (33.3%) required 31-90 more days

As of November 30, 1998, 23 (9.1%) of unfinished new requests were in a deemed-refusal situation. The duration for these outstanding requests is not known.

## 2. Complaints—Deemed Refusals





In 1997-98, the Office of the Information Commissioner received 23 deemed-refusal complaints against FAIT—most (20—86.9%) were upheld (resolved). If all requesters where responses were late had exercised the right to complain, the commissioner's office would have received 365 complaints.

As of January 28, 1999, the commissioner's office has received 20 complaints—again, most (18—90%) were upheld (resolved). That number (based on known statistics to November 30, 1998) could have been as high as 184 complaints. By the end of the fiscal, the overall picture may well be worse than last year.

FAIT's ATI Coordinator also pointed out that FAIT's new requests are up by 25% over last year and many have been processed faster. Slightly higher numbers and some improvement can be seen on FAIT's statistical self-audit questionnaire (included under Part B, item II). It is too early to say, however, that the statistics demonstrate overall improved performance by FAIT.

### **3. ATI Office—Staff**

The processing of access requests is the responsibility of the ATI Coordinator, who is also responsible for processing requests under the *Privacy Act*. The staff of the ATI office is comprised of seven employees—five officer-level and two support staff. Two experienced, part-time consultants also assist with records review.

### **4. ATI Office—Budget**

The ATIP office salary dollar budget for 1998-99—excluding the recent PSAC settlement—is \$335,000 for seven positions. The budget remained unchanged from 1997-98, which had been up from the 1996/97 budget of \$317,000 for seven positions.

The ATIP office operating budget for 1998-99 is \$191,000, also unchanged from 1997-98. The 1996/97 budget was \$176,000. Training is paid from the departmental training budget.

### **5. Allotted Times for Request Processing**

The following internal deadlines have been established by FAIT to assist it in meeting the overall 30-day response deadline.

The 30-day statutory time limit allows 21-22 days for processing. FAIT's expected turnaround times (listed below) would require some simultaneous processing for the deadline to be met.

<u>Area</u>	<u>Turnaround Time</u>
ATI Office	2 days (at receipt)
Operational Units	10 days (unless extension taken)
ATI Office	__ days (review)
Director General, Executive Services	1 day
Communications	5 days (simultaneous to processing)
Minister's Office	7 working days
ATI Office	5 days final processing

## **V. Sources of Delay**

There appear to be three primary reasons for the delay problem at FAIT: Delays in the Ministers' offices; delays in the Communications Strategies Office, and delays in operational areas where records are held.

### **1. Ministers' Offices**

Until recently, access requests at FAIT were brought to the Ministers' attention before an answer was given. Both the prepared responses and accompanying communications materials, including a communications plan and Q<sup>s</sup> and A<sup>s</sup> (suggested answers the Ministers could give to questions in the House or from the media), were sent to the Ministers. This bottleneck made it virtually impossible to answer even the most routine requests in a timely manner.

It should be noted that the review in the Ministers' offices does not add any value to the processing of the requests. Rarely were the coordinator's recommendations changed. The purpose of ministerial review is primarily to keep the Ministers informed of impending responses. On some occasions, delays in the Ministers' offices could be characterized as strategic in nature.

### **2. Communication Assessments**

FAIT's Communications Strategies Office, Corporate Communications Division, has been a principal source of delay in the access request processing system. (See departmental information for recent changes in the role.) This office prepared communication packages for the Ministers, which accompany recommended responses to access requests.

Traditionally, the Communications Strategies Office has not placed a priority on the rights of requesters to receive timely responses. The office's priority has been to ensure that the Ministers' and departmental communications needs were met, however long it took to manage the proposed disclosure.

The Communications Strategies Office's priorities appear to have been in this order:

1. Serve the communications needs of the Ministers.
2. Serve the communications needs of the DM and department.
3. Serve the convenience of the communications strategies' staff.
4. Serve the needs of the access requester.

Since a large percentage of access requests were routed through the Communications Strategies Office on the way to the Ministers' offices, delays in

this area seriously affected the whole system. It is to be hoped that the changes adapted by FAIT (and reported at page 11) will rectify this problem area.

### **3. Operational Areas (OPIs)**

FAIT's operating procedures give the OPIs, where requested records may be held, ten days (until recently seven days) to return relevant records and make initial exemptions recommendations or to advise the ATIP office that an extension of time is required. In 75% of the requests processed, the operational areas failed to respect the ten-day period. The department's ability to meet either the 30-day deadline or to invoke an extension of time (which must be done within the initial 30 days) is, thus, eroded.

Operational officials need to be better educated concerning the mandatory legal obligations they are under to respond in a timely fashion. At present, responding to access requests is given a low priority.

Concerning missions abroad, delays are exacerbated due to the logistics of transmitting the records to headquarters. For reasons of privacy and security, such transmission is by diplomatic bag—a slow service, which varies in frequency from post to post. It is not unusual for it to take two weeks to pass records from missions abroad to Ottawa via diplomatic bag. A delay of this magnitude makes it virtually impossible to complete the overall processing of an access request within deadline.

### **4. Other**

FAIT is of the view that there are two other causes of delay: 1) the high number of cases requiring consultations with third parties and other governments, and 2) the complexity and sensitivity of requests received.

With regard to the high volume of cases requiring consultations, it is the Information Commissioner's view that FAIT has all the legal tools it requires under the Act to extend response deadlines for the purpose of consultations. Once operational areas come into compliance with the 10-day turnaround standard, FAIT will be able to invoke extensions and, hence, reduce the number of deemed refusals due to consultations. Additionally, it is entirely within the control of FAIT to manage the duration of these consultations. After selecting the period of extension, in consultation with the third party or foreign jurisdiction, FAIT should proceed to answer the request whether or not the third party or foreign jurisdiction has responded to the consultation.

With regard to the complexity and sensitivity of requests, the commissioner is of the view that FAIT does not fall above the norm in this regard. Most departments are experiencing an increase in the complexity of requests simply because departments are releasing more routine information informally, through

publications and on websites. After 15 years, Canadians are becoming more sophisticated users and are targeting more complex and sensitive issues. That is true for all government institutions. On this score, too, better management of extensions is the key to addressing the problem.

There appears to be little evidence to support FAIT's view that the information it holds is uniquely sensitive or that mistakes in processing access requests could have more catastrophic results. The evidence shows that a large percentage of files are processed as sensitive and that, as a consequence, there is often senior level involvement, hand-wringing and debate but rarely does that activity (and delay!) add value to the processing of the request. In the majority of cases, the exemptions initially applied by the ATI office are adopted. The better course, would simply be for senior management to rely on the coordinator's judgement.

## **VI. Management Response to the Problem of Delay**

### **1. Improved Monitoring**

Until fiscal year 1998-99, FAIT was not able to produce reliable statistics concerning its progress in meeting response deadlines. The former information commissioner pointed to this weakness in his 1997-98 Annual Report. Effective April 1, 1998, FAIT implemented a case tracking system known as *ATIPflow* from MPR & Associates. The system has the following features:

- Is year 2000 compliant.
- Calculates due dates, days allowed and the number of days taken.
- The automated correspondence feature transparently extracts and merges information into word-processing software.
- Confidential text marking ensures requester confidentiality when uploading to CAIR.
- Electronic case history.
- Search options on applicant, full text, OPI, actions, etc.
- Standard reports include: active requests, status, and workload reports including the last action, progress report, on-time trends, BF by officer, annual statistical report and more.
- Allows extensive trend analysis.
- Captures annual report statistics automatically as the request is processed.

Once this system was in operation, it produced reports in October of 1998, which assisted FAIT management in identifying delay factors and devising strategies for solving the problems.

### **2. Ministers' Offices**

To reduce the number of cases requiring ministerial approval, the Ministers have been asked to triage the requests that come in and specifically identify those that they wish to approve in advance of disclosure. Under this approach, the department anticipates that 65% of requests will go to the Ministers and that the Ministers will respect a five-day turnaround time. FAIT's new procedures require records to be disclosed to the requester five working days after the memorandum and the Q<sup>s</sup>&A<sup>s</sup> are delivered to the Ministers' offices.

### **3. Communication Assessments**

FAIT moved the preparation of communication assessments from the Communications Strategies Office to the Media Relations Office. It is believed that because the Media Relations Office is more sensitive to 'hot' issues, it can reduce the number of cases requiring elaborate communication assessments. This reduction will also depend on there being a reduction in the number of

cases going to Ministers.

As well, the Media Relations Office has been asked to play a greater role early in the processing of an access request. It will review incoming requests and assist operational areas in identifying communication sensitivities. In this way, Q<sup>s</sup> and A<sup>s</sup> can be prepared earlier in the process, if required.

[Comment: Experience has shown that the likelihood of meeting deadlines is improved if media relations offices are not in the approval chain. Media relations should be dealt with in a parallel process, for information, and if media relations falls behind, the approval process continues.]

#### **4. Operational Areas**

To address the problem of delay in operational areas, senior management has asked that all operational areas be educated and trained concerning their obligations when processing access requests. Training initiatives include:

- Course presentation and exercises for a new training module on access to information and privacy for entry-level foreign service officers, held under the auspices of the Canadian Foreign Service Institute;
- Course presentation on access to information and privacy for officers and staff of the Consular Affairs Bureau; and
- Introduction on access to information and privacy for incorporation in the Heads of Mission Guide.

Management has also asked all operational areas to give a higher priority than previously was the case to processing access requests. Previously, operational areas were given seven working days within which to locate the records and make preliminary recommendations for severance; then, at a later stage in processing, they were given more time to address the communications issues. Under the new initiatives, operational areas will have ten working days to satisfy all requirements.

The department's new ATIP*flow* system will be used to monitor performance of the operational areas in meeting their turnaround time.

[Comment: The department has not identified any initiative to address the slow transmission of records to headquarters from missions abroad. As well, it has not devoted new resources to ensure that additional educational training can be accomplished without detracting ATIP staff from current duties. Finally, the department has not identified any consequences for the managers of operational areas who fail to comply with their turnaround times. Experience has shown that, when it comes to improving delays in operational units, directives from the top, however strongly worded, do not have much effect. Rather, such directives must be supplemented by specific performance contracts with operational

managers and a commitment of additional resources when it can be demonstrated that they are necessary to meet processing deadlines.]



## VII. Recommendations

Before offering specific recommendations to assist FAIT in improving its performance grade, the department's leadership deserves credit for recognizing and facing up to its performance shortcomings. The corrective action, to date, has been cautious and more is required—but there is good faith and reason for optimism. The Deputy Minister's recent decision that FAIT's senior management will take the lead in addressing the delay problem and bring FAIT into compliance with the *Access to Information Act* is a very positive development.

This review recommends the following:

- ❖ The coordinator is directly responsible for ensuring compliance with the Access Act, and should take a strong leadership role in establishing a culture of compliance throughout RC. Such a role requires the unwavering support and endorsement of the Minister and the Deputy Minister.
- ❖ The coordinator should be directed by the Minister, in writing, to exercise the delegation to answer requests within deadlines whether or not the senior approval process has been completed.
- ❖ FAIT should start making use of extensions under section 9, and OPIs (including field offices) should be trained to identify records that would justify a valid extension. Further, OPIs should contact the ATI office without delay to indicate the request involves a large number of records, or a search through a large number of records. If the ATI office is aware of the need to extend, within the initial 30 days, a valid extension can be taken if the appropriate notice is sent on time.
- ❖ Allotted turnaround times should be tightened up, with some approval processes dropped or performed simultaneously. An information sheet, clearly showing the expected turnaround times for each stage in the access process, should be developed. This might help those not familiar with the request process to understand the tight timelines.
- ❖ OPI-specific training (and information packages), with a focus on timelines and other considerations, should be developed, and training sessions given.
- ❖ If a request is clarified or modified, the ATI unit should confirm, in writing, its understanding of the revised request—when the original wording of a request does not provide sufficient detail to enable an experienced employee of the institution with a reasonable effort to identify the record. The date clarified becomes the effective date of the request, and the requester should be informed.
- ❖ If an extended date will not be met, the ATI office should routinely contact

the requester to indicate it will be late, to provide an expected response date and of the right to complain to the Information Commissioner. This will not impact the deemed-refusal status once the extension date is missed; however, it will alleviate some of the requester's frustration and perhaps avert a complaint.

- ❖ If an outstanding request is almost one year old, the ATI office should notify the requester about section 31, the one-year limitation on the right to complain.
- ❖ Performance contracts with operational managers should contain consequences for poor performance in processing access requests.
- ❖ Come into substantial compliance with the Act's deadlines no later than March 31 of 2000.
- ❖ Where possible, the ATI office should provide partial response releases for portions of records not involved in 3<sup>rd</sup> party or other consultations.
- ❖ Approach the overall delay problem by establishing milestones to reach pre-set targets for improved performance (i.e. move to a project management mode).
- ❖ ATI training should be mandatory for all new managers as part of their orientation and for all managers on a refresher basis.
- ❖ An information sheet, clearly showing expected turnaround times for each stage in the access process, should be developed. This might help those not familiar with the request process to understand the tight timelines.
- ❖ The delegation order now in force (March 11, 1998) empowers the Deputy Minister of Foreign Affairs, the Deputy Minister of International Trade, the Director General, Executive Services Bureau and the Access Coordinator to exercise all of the powers of the Minister under the Act. It does not, however, make it clear who has the responsibility for decision-making under the Act. In practice, in all but the most straightforward cases, the responsibility seems to be a collective one. It should be made explicit where the responsibility for decision-making under the Act lies.
- ❖ Correspondence from the coordinator to OPIs should be rewritten in a more authoritative voice. The OPI involvement in the access request process is an obligation, not an option and communications should not give the impression that compliance is discretionary.
- ❖ Covering memoranda to OPIs should require that the ATI office be contacted as early in the review as possible if conditions exist (such as large volume of

records or need for consultations) which would allow the coordinator to claim a time extension.

- ❖ The coordinator should use the ATIP*flow* system's reporting capabilities to monitor OPI turnaround times. Problematic areas should be reported to Senior Management.
- ❖ Procedures for obtaining information from missions abroad should be examined. If feasible, areas that receive large numbers of access requests should be trained to identify records that would justify a valid extension. An e-mail or fax, even subject to unstable technology, can be faster than the diplomatic mail service.
- ❖ Remove media relations from the approval chain and deal with that office in parallel.

## VIII. Other Matters

During this review, it was discovered that FAIT had, for a period of one year, ceased obeying the mandatory requirement to notify the Information Commissioner of every instance where an extension of more than 30 days is claimed to answer a request. FAIT officials claimed that they had received oral authorization from the Information Commissioner's office to cease such notices.

There is no evidence to support FAIT's contention that it had authorization to cease giving the notice required by subsection 9(2) of *the Access to Information Act*. The Information Commissioner has never given any such authorization to any department because he has no authority so to do. Parliament has made the giving of such a notice a mandatory requirement. FAIT agrees that the practice should not have been stopped and it has been reinstated.

## **B. BASIS OF REPORT**

### **I. INTERVIEW WITH FAIT'S ATIP COORDINATOR—DECEMBER 22, 1998**

On December 4, 1998, FAIT's ATIP Coordinator was interviewed for the purpose of this Report Card.

**The Deputy Ministers wrote to all directors general and directors at headquarters, to apprise them of the seriousness of the delay problem in FAIT and to enlist support in resolving it:**

***Access to Information Act:***  
**New Procedures to Address the Problem of Delays**

**Talking Points**

The *Access to Information Act* requires the Department to respond to an access request within thirty days of its receipt (although extensions are available on certain grounds).

When a requester complains to the Information Commissioner about an alleged failure to respond within the statutory deadline, and the complaint is upheld, the Minister is deemed to have refused to provide access, in contravention of the Act.

The problem of delays in responses by DFAIT has become so serious that, beginning next month, the Information Commissioner will be doing an audit of the Department's performance, as the basis for a special report to Parliament.

Executive Committee also takes the delay problem very seriously and has decided on a number of changes aimed at improving the Department's performance on access requests.

A significant source of delay has been FAIT's cumbersome process for preparing communications advice on potentially sensitive releases. Under this process, BCM has done "communications assessments" based on consultations with the responsible line divisions, often some time after the line divisions had sent the proposed release packages forward.

Executive Committee has now approved a more streamlined procedure, with overall communications responsibility being assigned to BCM [the Media Office]. BCM will review access requests as they are received by the Department and will be in direct contact with line divisions to apprise them of any identified communications sensitivities.

As well, the responsible line division, in responding to an access request, will send to the Access to Information and Privacy Protection Division (DCP): the documents captured by the request (with recommendations concerning the release, exemption or exclusion of the information); and a current Q&A, focussed on the release, if a Q&A is warranted. The Q&A will be forwarded to BCM and to the Minister's office.

Line divisions will now be given ten working days to respond to DCP, rather than the seven days available previously. Compressing the retrieval, review and communications assessment elements into one process will speed up the processing of access requests, and it will mean that the line divisions only have to deal with the case once, rather than the past practice of involving them at two separate stages.

Access to information is a shared responsibility. With access requests having become an inescapable feature of the Department's work, every officer should see the handling of access requests as an integral part of the management of his or her files. Also, the support of

DFAIT's directors is critical to our success in encouraging timely attention to access to information requests.

**The coordinator provided a copy of an e-mail sent from Mr. Donald Campbell on November 10, 1998:**

**From:** Robert G. Wright, Deputy Minister for International Trade and Donald W. Campbell, Deputy Minister of Foreign Affairs  
**Subject:** Access to Information—New Procedures

**This message is for the attention of Directors General and Directors.**

The *Access to Information Act* requires the Department to respond to an access request within thirty days of its receipt (although extensions are available on limited grounds.) For a number of reasons, DFAIT has too often failed to focus on access requests in a timely fashion and to get the responses out within the legislated deadline.

The problem of delays in responses by DFAIT has become so serious that, beginning next month, the Information Commissioner will be doing an audit of the Department's performance, as the basis for a special report to Parliament.

Executive Committee has decided on a number of changes aimed at streamlining the access process and thereby improving the Department's performance on access requests. The changes that effect line divisions are in the area of communications.

The Media Office (BCM) has been given overall responsibility for managing access-related communications issues. When an access request is received, BCM will work with the responsible line division to identify any communications sensitivities. If a Q&A is warranted, the line division will be required to send to BCM a current Q&A (focussed on the release) when it sends to the Access to Information and Privacy Protection Division (DCP) the documents that respond to the request and the recommendations on the release, severance, exemption or exclusion of the information.

Integrating the retrieval and review of the documents with the assessment of communications sensitivities will speed up the processing of access requests, and it will mean that the line divisions only need to deal with each access request once, rather than the past practice of involving them at two separate stages in the process. Moreover, line divisions will now be given ten working days to respond to access requests, rather than the seven days available previously.

Access to information is a shared responsibility. With access requests having become an inescapable feature of the Department's work, every officer should see the handling of access requests as an integral part of the management of his or her files.

We would ask FAIT's directors general and directors to help the Department achieve a better record of timeliness in responding to access requests.

**a. Have you noticed any immediate improvements?**

Yes. 1) On average, OPIs take requests more seriously. Further, there have been requests for briefings/training for officers to be informed about the Access

Act. Along with a higher priority, there is a greater interest. 2) There is a tremendous improvement with the Communications Bureau. Many more requests are being released without elaborate communications analysis.

**b. Does any particular line division (or divisions) stand out as being more problematic than the others are? If so, is there any reason why that division might have difficulties?**

Communications was a problem. Recently, however, FAIT transferred the responsibility from the Corporate Communications division to the Press office. The Media office's Director does sign-off. As to line divisions, there are 130 divisions. There is some variation in time responses—some only at specific times. "There are no deadbeat divisions."

**II. FAIT—PRE-INTERVIEW SELF-AUDIT QUESTIONNAIRE**

Questionnaire for Statistical Analysis Purposes in relation to official requests made under the Access to Information Act			
Part A: Requests carried over from the prior fiscal period		April 1/97 to March 31/98	April 1/98 to Nov. 30/98
1.	Number of requests carried over:	112	105
2.	Requests carried over from the prior fiscal—in a deemed-refusal situation on the first day of the new fiscal:	99	96
Part B: New Requests—Exclude requests included in Part A.		April 1/97 to March 31/98	April 1/98 to Nov. 30/98
3.	Number of requests received during the fiscal period:	316	252
4.A	How many were processed within the 30- day statutory time limit:?	122	105
4.B	How many were processed beyond the 30-day statutory time limit where no extension was claimed?	115	53
4.C	How long after the statutory time limit did it take to respond where no extension was claimed?		
	1-30 days:	46	31

	31-60 days:	17	13
	61-90 days:	13	2
	Over 90 days:	39	7
5.	How many were extended pursuant to section 9?	79	19
6.A	How many were processed within the extended time limit?:	24	7
6.B	How many exceeded the extended time limit?:	55	12
6.C	How long after the expiry of the extended deadline did it take to respond?		
	1-30 days:	4	8
	31-60 days:	8	3
	61-90 days:	12	1
	Over 90 days:	31	0
7.	As of December 1, 1998, how many requests are in a deemed refusal situation?		23
Part C: Contributing Factors			
8.	Use this area to describe any particular aspect about a request or type of request that may impact on the difficulty or time necessary to complete a request: ------(Not completed.)		
THANK YOU FOR COMPLETING THIS QUESTIONNAIRE			

### III. FAIT—REVIEW QUESTIONNAIRE (DECEMBER 1998)

#### Review Questionnaire—December, 1998

##### Delegation of Authority:

1. **On the Delegation Order for your institution, which powers, duties and functions have been delegated and to whom? (Please provide a current copy of the Delegation Order.)**

The coordinator provided copies of the Delegation the *Access to Information Act* and the *Privacy Act*. (These have been reproduced below.)

**Text from the Designation Orders provided in response to this questionnaire is as follows:**

Minister of Foreign Affairs Canada

***Access to Information Act Designation Order***

The Minister of Foreign Affairs, pursuant to section 73 of the *Access to Information Act*, hereby designates the persons holding the positions set out in the schedule hereto, or the persons acting in those positions, to exercise the powers and perform the duties and functions of the Minister of Foreign Affairs as the head of a Government institution under the Act. This designation replaces the designation dated January 17, 1994.

SCHEDULE

Position

1. Deputy Minister of Foreign Affairs
2. Deputy Minister for International Trade
3. Director General, Executive Services Bureau
4. Director, Access to Information and Privacy Protection Division

Date: March 11, 1998. Signed by: Lloyd Axworthy

Minister of Foreign Affairs Canada

***Privacy Act Designation Order***

The Minister of Foreign Affairs, pursuant to section 73 of the *Privacy Act*, hereby designates the persons holding the positions set out in the schedule hereto, or the persons acting in those positions, to exercise the powers and perform the duties and functions of the Minister of Foreign Affairs as the head of a Government institution under the sections of the Act set out opposite each position in the schedule. This designation replaces the designation dated January 17, 1994.

SCHEDULE

	<u>Position</u>	<u>Sections of Privacy Act</u>
1.	Deputy Minister of Foreign Affairs	All sections
2.	Deputy Minister for International Trade	All sections
3.	Director General, Executive Services Bureau	All sections
4.	Director, Access to Information and Privacy Protection Division	All sections
5.	Heads of diplomatic/consular missions	Paragraph 8(2)(m)

Date: March 11, 1998. Signed by: Lloyd Axworthy

**2. Are the ATI roles and responsibilities for those with delegated authority clearly defined?**

X yes; \_\_\_ no



3. **Do officers with delegated authority actually exercise the delegation? Or, in practice, does the approval process require the approval or concurrence of officials who are not holders of delegated authority? (Explain.)**

Those with authority exercise it.

**ATI Office:**

1. **To which unit/division (and management level) of the institution does the ATI coordinator report?**

**a) For operational purposes:**

Director General, Executive Services.

**b) For administrative purposes:**

Director General, Executive Services.

2. **Who (name and title) completes the coordinator's annual performance appraisal?**

Laurette Burch, Director General, Executive Services.

3. **Does the ATI Coordinator have a clear mandate? (Please provide all documentation which sets out the coordinator's goals, objectives, duties, responsibilities and authorization.)**

X yes; \_\_\_ no

1. The Delegation Orders (See response to Delegation of Authority, question 1.)
2. The Job Description

The following are excerpts from the coordinator's job description:

GENERAL ACCOUNTABILITY:

The Coordinator is accountable for the development, implementation and administration of departmental policies respecting the *Access to Information* and *Privacy Acts* and for decisions taken thereunder for the Department of External Affairs and International Trade.

[...]

NATURE AND SCOPE:

[...]

There are three major functions associated with this position:

1. the provision of advice and guidelines to Ministers, senior management and Access Officers on all aspects and implications of the ATIP Acts;
2. the coordination and control of responses to ATIP requests and the interdepartmental and intergovernmental consultations related to such requests; and
3. the motivation of Departmental personnel to respect and comply with ATIP objectives.

The Coordinator is directly responsible for the formulation and implementation of policies and guidelines relating to ATIP legislation; the provision of advice on Departmental interpretation, implementation of, and compliance with, the Acts or ancillary legislation; the planning,

coordination and control of the processing of ATIP requests; -the coordination of consultations with other government institutions (federal, provincial and foreign) and the third parties; the review of recommendations and release of information; the investigation of and the coordination of the Departmental responses to major complaints lodged with the Information or Privacy Commissioners; and, the development and implementation of briefing sessions for Departmental personnel on ATIP legislation.[....]

The Coordinator represents the Department on the Treasury Board Advisory Committee responsible for the development of Government policies on ATIP matters and contributes to the Justice Department Review Committee which recommends legislative amendments to Parliament. On these the incumbent's contributions relate particularly to international and security issues which are of concern to the Department of External Affairs.  
[....]

In general terms, the work of Coordinators throughout the Public Service of Canada is challenging because the legislation is relatively new. Ambiguities remain and a body of precedent takes many years to develop. In the meantime, departmental policies must be based, to a considerable extent, upon the conjecture and best judgement of the Coordinator. Further, it is apparent that the Coordinator must reconcile a dichotomy of role. He is, on the one hand, an advocate of more open government and accountability to the Public, while remaining obliged to safeguard records that are vital to the interests of Canada or records containing personal information under the control of the institution.

Because of the international role of the Department of External Affairs, the Coordinator faces special challenges in the administration of the ATIP laws. The interests of other states would be seriously affected were critical information released at the wrong time. If such information is not properly handled great damage can result—not only with respect to the offended party but with others who would be less than forthcoming in future matters of interest to Canadians. The broad rule on state-to-state relations is that communications between governments are private. The Canadian legislation, designed for internal circumstances, must be applied carefully to retain the trust of other countries.

Similarly, the Department of External Affairs holds data and information provided, usually in confidence, by Provincial Governments in Canada, by other federal departments and by the Canadian business sector. Without this in put, whether given freely or in response to legislated demands, the conduct of Canada's international relations would be weakened. Mishandling of the information would engender distrust, delays and in some cases, extensive pecuniary damage.  
[....]

The Coordinator is responsible for all Canadian Government consultations with other governments concerning the release of records and provides a point of contact for foreign governments or international institutions on matters related to the interpretation or implementation of the Canadian legislation. The Coordinator periodically undertakes consultations with selected countries and institutions, and attends national and international meetings on Access and Privacy subjects.[....]

#### SPECIFIC ACCOUNTABILITIES

1. To manage the timely release of information to which the Public has right under the ATIP Acts.
2. To safeguard personal information, and information the release of which would be harmful

- to the interests of Canada.
3. To authorize the declassification and release of documents under delegated authority from the Secretary of State for External Affairs.
  4. To develop departmental policies, guidelines and attitudes to support the aims of ATIP legislation.
  5. To represent effectively the Department's concerns and interests before the Commissioners of ATIP and at the Federal Court.
  6. To contribute to the development of ATIP legislation to support the special responsibilities of the Department of External Affairs.

3. Treasury Board Manual

**Treasury Board Manual  
Information and Administrative  
Management Component  
Access to Information**

**4. The Access to Information Coordinator**

Each institution is required, by policy, to designate an official known as the Access to Information Coordinator. This official should, at most, be no more than two levels removed from the deputy head. The Access to Information Coordinator is responsible on behalf of the head of the institution and the deputy head for ensuring compliance with the Act, Regulations and policy.

The duties may include:

- Developing, implementing and monitoring institutional policies, procedures and practices for administering the Act, including processing and tracking requests, ensuring adherence to legislative requirements and reporting to Parliament and the Designated Minister;
- Establishing process aimed at accurate and timely response to requests;
- Training and development of all staff in the institution;
- Consultation with program managers, senior managers, legal counsel, Treasury Board Secretariat, Department of Justice and the Privy Council Office as necessary for the proper application of the legislation and policy;
- Production of the institution's input to the publications required by the legislation;
- Making decisions on requests where there is delegated authority to do so;
- Explaining institutional decisions on administration of the Act in investigations by the Information Commissioner and decisions on the granting or refusal of Access before the Federal Court;
- Preparing an annual report to Parliament in accordance with section 72 and paragraph 70(1)(d) of the Act;
- Aiding in the review of policy recommendations on issues related to the legislation.

- 4. Is the ATI Coordinator performing his/her duties on a full-time basis? If not—in instances where the individual also performs duties under another position title—please indicate the percentage of time spent on ATI matters.**

Duties are carried out on a full-time basis.

In addition to managing the Department's responses to ATI requests and consultation requests, the ATI Coordinator carries out consultations with foreign governments and international organizations, pursuant to sections 13 and 15(1), on behalf of institutions throughout the government of Canada.

Time spent carrying out consultations on behalf of other institutions:

**A: Officer Level**

<u>Classification</u>	<u>% of workload</u>
EX-1, Director	10%
FS-2, Deputy Director	25%
FS-1, ATIP Officer	10%
PM-4, ATIP Officer	10%
PM-1, ATIP Officer, Programme Assistant	10%
Consultant #1	30%
Consultant #2	0%

**B: Support:**

<u>Classification</u>	<u>% of workload</u>
CR-4, Systems Administrator	10%
CR-4, Programme Assistant	10%

Notes:

1. Percentages for officer level staff differ significantly because certain officers handle relatively greater numbers of consultation files.
2. Support staff percentages represent a generalized figure for the proportion of time spent in support of consultation files.
3. These figures do not include the very high volume of consultation requests processed on behalf of investigative bodies under Section 8(2)(3) of the *Privacy Act*.

[Note: The officer-level total is 95%—one full-time equivalent. What percentage of time are the officers involved in the “very high volume” of privacy-related consultations?—one or two full-time equivalent(s)? There is no argument, FAIT's ATIP role includes these consultations as “an essential part” of its mandate. However, consultation duties aside, FAIT only has the equivalent of 3-4 officer-level employees working on FAIT's ATIP requests—it's unlikely that the ATIP Coordinator does any processing. With the workload—April 1, 1998 to November 30, 1998—at 357 requests, the workload per available officer time for processing requests would include from 89 to 119 access requests—the number of privacy requests is unknown. FAIT plans to hire two additional PM-04s next fiscal, perhaps they should consider hiring more. They might also consider making one or two of the officers consultations specialists, leaving the others available to full time access and privacy request processing.]

**5. Does the ATI Coordinator have authority/control over ATI activities throughout the institution (i.e. headquarters, regions, etc.)?**

Yes.

**6. If not, who is responsible for the ATI activities in other areas? (If**

more than one other person, please identify each by name, title, and classification—ground level.)

Not applicable.

7. Please provide a breakdown of all employees in the ATI office, showing classification, full or part-time status, and number of years of experience.

**A: Officer Level:**

<u>Classification</u>	<u>Full-time</u>	<u>Part-time</u>	<u>No. of years of Experience</u>
EX-1	x		1 ½years
FS-2	x		1 year
FS-1	x		9 years
PM-4	x		5 years in DFAIT & 5 years in other departments
PM-1	x		3 ½years as PM-1 (Previously ATIP divisional secretary)

Plus two experienced part-time consultants.

**B: Support:**

<u>Classification</u>	<u>Full-time</u>	<u>Part-time</u>	<u>No. of years of Experience</u>
CR-4	x		7 years
CR-4	x		2 ½years

8. Have written, internal procedures been developed and implemented to ensure that access requests are processed in accordance with the statutory provisions of the Act, Regulations and the Treasury Board Guidelines? (If yes, please provide copies.)

X yes; \_\_\_ no

**Current Procedure - Principal Steps**

- DCP receives a written access request. The request is determined to be: 1) sufficiently clear and precise to be acted upon; 2) otherwise consistent with the *Access to Information Act*; and 3) accompanied by payment of five dollars. The Director assigns the request to an officer, and the officer determines which unit(s) of the Department should be tasked as the office(s) of primary interest (OPI).
- DCP sends a tasking memorandum to the OPI. Normally, the OPI is given seven working days to identify the records that respond to the request, review them and make recommendations for the exemption/exclusion of specific text in accordance with the relevant provisions of the Act. The OPI is also asked to consider the communications implications of the request and to prepare draft media lines, if appropriate. (A sample tasking memorandum is attached hereto.)
- DCP reviews the material received from the OPI(s), scrutinizes the recommendations concerning exemptions/exclusions, and challenges them as necessary. DCP carries out

consultations with the PCO, OGDs and other governments, as well as with private third parties. Following the completion of the consultations, the proposed release package is prepared.

4. DCP sends the release package and any available draft media lines to BCFP, under cover of a "Access to Information Release" memorandum that provides the text of the access request. The memorandum advises BCFP of the appropriate contact(s) in the responsible line division(s). A copy of the memorandum (without the attachment) is sent to MINA and/or MINT, as an initial "heads up". Normally, BCFP is given seven working days to prepare a communications assessment and to return the draft release package with the assessment to DCP. (A sample memorandum to BCFP is attached hereto. You will note that BCFP is required to indicate on the memorandum either "Communications Material Attached" or "Communications Material Not Required".)
5. If BCFP indicates on the memorandum that communications material is not required, the release package is dispatched to the requester from DCP. If BCFP provides communications material, the memorandum is sent to MINA and/or MINT along with the release package and the communications assessment. When the two Ministers' offices are consulted, the consultations take place concurrently. The Ministers' offices are given seven working days to sign the "Access to Information Release" memorandum and return it to DCP.

Only the most innocuous records, such as call-ups against standing offers for the supply of temporary help and other purely administrative documents, are released from DCP without a referral to BCFP.

6. Once the Minister's office has signed the "Access to Information Release" memorandum, DCP sends the release package to the requester.

#### **Proposed ATI Procedure - Principal Steps**

1. DCP receives a written access request. The request is determined to be: 1) sufficiently clear and precise to be acted upon; 2) otherwise consistent with the *Access to Information Act*; and 3) accompanied by payment of five dollars. The Director assigns the request to an officer, and the officer determines which unit(s) of the Department should be tasked as the office(s) of primary interest (OPI).
2. DCP sends a tasking memorandum to the OPI (with a copy to BCM) within two working days of receiving the request:
  - normally, the OPI is given ten working days to identify the records that respond to the request, review them and make recommendations for the exemption/exclusion of specific text in accordance with the relevant provisions of the Act;
  - the OPI is also tasked with advising DCP of whether the release of the documents raises any communications implications—In the meantime, BCM advises the OPI and DCP of any relevant sensitivities of which it is aware. If there are communications implications, the OPI is required to provide a current Q&A, focussed specifically on the release of the documents—Qs&As concerning Access to Information requests are in the same form as those for use in the House of Commons.

If the request is expansive in scope or complex, or if extensive consultations are required, DCP works with the OPI to establish a reasonable extension of the deadline for responding to the requester, beyond the normal thirty days—The Department may only take an extension within the first thirty days after receiving a request, and only on the limited grounds set out in the Act.

3. The OPI sends to DCP the documents that are captured by the request, along with the recommendations concerning exemptions and exclusions and the Q&A, under cover of a memorandum signed by the Director.
4. The OPI advises any affected missions abroad of the upcoming release, as appropriate.
5. DCP reviews the material received from the OPI, scrutinizes the recommendations concerning exemptions/exclusions, and challenges them as necessary. DCP carries out consultations with the PCO, OGDs and other governments (provincial or foreign), as well as with private third parties. Following the completion of the consultations, the release package is prepared.
6. If the OPI has advised that the release raises no communications implications, DCP dispatches the records to the requester.
7. If the OPI has identified communications implications and has provided a Q&A, DCP delivers the Q&A to the affected Minister(s)—The memorandum and the Q&A are hand delivered by DCP staff to the Minister's office, and the Minister's staff acknowledge receipt in writing—(with copies to BCM and DCL)—If an impending release has direct significance for the Prime Minister or has Government-wide importance, DCP notifies the PCO ATIP office (with a copy to PCO/Communications and BCM.)—under cover of a memorandum that:
  - Sets out the text of the access request;
  - Identifies the appropriate contact(s) in the responsible line division(s);
  - States the scheduled release date for the release of the records (normally five working days after the delivery of the memorandum and the Q&A to the Minister's office); and
  - Contains the following message: "If you consider that it is necessary for you to see the documents that are to be released, please advise this Division."
8. Five working days after the memorandum and the Q&A are delivered to MINA and/or MINT, DCP releases the documents to the requester.
9. Every Friday, DCP provides the release schedule for the following week to MINA and MINT (with a copy to BCM).

**Requests:**

9. **The Treasury Board Guidelines include that a copy of every access request—personal identifiers removed—should be submitted to the Coordination of Access to Information Requests (CAIR) System, Public Works & Government Services Canada within 24 hours of receipt. Is this being done? (Please provide any other guidelines you follow in this regard.)**

X Always, \_\_\_ almost always, \_\_\_ sometimes, \_\_\_ rarely, \_\_\_ never.

10. **If a request is clarified or modified, does the ATI office confirm, in writing, its understanding of the revised request—when the original wording of a request does not provide sufficient detail—with reasonable effort—to enable an experienced employee of the institution to identify the record? (Please provide any other guidelines you follow in this regard.)**

\_\_\_ Always, x almost always, \_\_\_ sometimes, \_\_\_ rarely, \_\_\_ never.

- The Division usually confirms the amendment in writing at the time that the amendment is made.
- The Division always confirms the amendment in the closing letter.

11. **When extensions are necessary, are notices sent to the requester within 30 days?**

X Always, \_\_\_ almost always, \_\_\_ sometimes, \_\_\_ rarely, \_\_\_ never.

Percentage of requests: 100%

12. **When notice is sent under subsection 9 (1), extending the time limit for more than thirty days, how often is a copy of the notice sent to the Office of the Information Commissioner?**

\_\_\_ Always, \_\_\_ almost always, \_\_\_ sometimes, \_\_\_ rarely, x never.

Percentage of requests: 0%

[This response resulted in a phone call for verification. A FAIT employee said the response is correct. FAIT discontinued forwarded a copy of the notice, about a year back, following a conversation with someone—believed to be an investigator with this office—who said this was no longer necessary. The employee was informed that the requirement of the law has not changed; therefore, FAIT will recommence sending copies.]

13. **Following an extension, if it is unlikely that the extended date will be met, does the ATI office contact the requester to indicate:**

- 1) **the response will be late**

\_\_\_ Always, x almost always, \_\_\_ sometimes, \_\_\_ rarely, \_\_\_ never.

- 2) **of an expected date for the final response**

\_\_\_ Always, \_\_\_ almost always, x sometimes, \_\_\_ rarely, \_\_\_ never.



**3) of the right to complain to the Information Commissioner**

Always, \_\_\_ almost always, \_\_\_ sometimes, \_\_\_ rarely, \_\_\_ never.

**14. If a request is almost one year old, does the ATI office notify the requester about section 31, and the one-year limitation on the right to complain—from the time the request is made? (Please provide any written guidelines you follow in this regard.)**

\_\_\_ Always, \_\_\_ almost always,  sometimes, \_\_\_ rarely, \_\_\_ never.

We are reviewing the policy. Such cases are very infrequent.

**15.a) Are third-party notices sent as soon as the need for such notice is identified?**

\_\_\_ Always,  almost always, \_\_\_ sometimes, \_\_\_ rarely, \_\_\_ never.

**b) Is the third-party timing process (as set out in section 28) observed?**

\_\_\_ Always,  almost always, \_\_\_ sometimes, \_\_\_ rarely, \_\_\_ never.

Percentage of requests: 95%

**16. If consultations are necessary, are these sent out as soon as the need has been identified?**

Always, \_\_\_ almost always, \_\_\_ sometimes, \_\_\_ rarely, \_\_\_ never.

**17. Does the ATI office provide a partial release of the request for portions that are not involved in the necessary third-party (or other) consultations?**

\_\_\_ Always,  almost always, \_\_\_ sometimes, \_\_\_ rarely, \_\_\_ never.

**18. Is there a tracking process in place to alert the ATI office if a request:**

- has not been assigned?:  yes; \_\_\_ no
- will not be processed within the 30 days?:  yes; \_\_\_ no
- is nearing the end of the extension date?:  yes; \_\_\_ no
- is past the extension date?:  yes; \_\_\_ no
- is almost one year old?: \_\_\_ yes;  no

**Please describe the nature of the tracking process and provide related documentation.**

- Since the beginning of the fiscal year 1998-99, this department has been using a case management system developed by MPRSYS Inc. (formerly MPR & Associates) called *ATIPflow*. The system designed to automate and track the processing of requests received under the *Access to Information Act* and the *Privacy Act*. Documents describing the case management system are attached.

- In this Division, *ATIPflow* replaced the tracking system developed by DSS more

than a decade ago.

**The company information sheet reads as follows:**

“Install the entire suite or only the workflow module to begin eliminating late responses and complaints.”

**ATIPsuite**  
**The Total Case Management Solution for**  
**Access To Information and Privacy Offices**

ATIPsuite is an advanced collection of three software programs designed specifically to provide electronic management of ATIP requests, resources and records. The three modules can either be installed as a suite or independently, providing you with greater choices to meet your individual requirement and budget.

Quickly and intuitively, *ATIP suite* can help your office standardize case management workflow, maximize the productivity of internal resources and provide powerful computerized records management functions. *ATIP suite* products are fully scalable, year 2000 ready and will easily integrate with your favourite *Windows* software to provide years of productive service.

**ATIP flow** is a case management and workflow solution that serves as an agent between you, your department, involved parties, and your requesters. You can easily assign requests, generate automated correspondence and retrieve required documents throughout your department, as well as consolidate all of your notes, response documents, telephone calls; and actions taken by you or members of your staff into a single case file for easy and efficient retrieval.

**ATIP image** uses document imaging technology to achieve a paperless ATIP case review process that let's you and your staff focus on actual case management rather than clerical tasks. Electronically sever text, attach notes, apply and track sections of the act, disclose documents and more with a click of the mouse. You can paginate and print out consultation and release packages automatically. Search and retrieve one specific document within thousands of pages instantly. A duplicity-checking feature ensures duplicate or similar documents are processed exactly the same way.

**ATIP scan** is used to efficiently capture and index all paper documents related to a request.

**MPR & Associates, 17 Albert Street, Casselman, Ontario KOA IM0**  
tel: (613) 764-1696 fax: (613) 764-0511, e-mail: [irenaud@magi.com](mailto:irenaud@magi.com)

**ATIP flow specific features include:**

**Benefits & Features**

- Improves resource management by ensuring a consistent workflow process.
- Simplifies and standardizes the creation of correspondence by transparently extracting and merging information into your favourite word processor.
- Automatically calculates the due date, days, allowed and the number of days each request has been in the Department's responsibility.
- Action based data entry window that tracks all request activities/actions with unlimited

- comments, predetermined due dates and stop clock functionality.
- Beginning and ending confidential text marking from anywhere within the program, whereby ensuring requester confidentiality when uploading to CAIR.
- Provides a diverse set of standard reports such as, Active Requests, Status, and Workload reports including the last action, Progress Report, On-time trends, BF by Officer, Annual Statistical Report, and many more.
- Provides electronic case history with sophisticated search options on applicant, full text, OPI, actions, etc.
- Captures annual report statistics automatically as the request is being processed.
- Includes multilevel security restricted by group and individual rights.
- Call up spell checking from anywhere within the program.
- Provides maintenance tables to edit static information.
- Provides the means to do extensive trend analysis.

#### **System Requirements**

ATIP *flow* will run on any networked industry standard Pentium workstation running Win95/NT with 32 MB memory and 15MB of available hard disk space.

## **Offices of Primary Interest**

1. **Are OPIs ATI responsibilities clearly defined?** X yes; \_\_\_ no

#### **Please provide any written documentation.**

- Attached is a copy of our memo to OPIs tasking them to retrieve the records that respond to the request and to provide their recommendations for disclosure or non-disclosure of the documents.

#### **The following is the body of a sample memorandum from DCP to an OPI, dated November 30, 1998:**

The Department has received a request under the *Access to Information Act* for the following information:

**Mailing list containing names, full addresses, fax, and if available, e-mail locators for all Team Canada invitees who went on missions to Latin America, China, and India. The entire list of invitees for the mission to Russia.**

1. Should you consider that the request is unclear or that another unit of the Department should be consulted in this matter, please advise the above-named officer immediately.
2. **We would be grateful if you would retrieve all documents that are within the scope of the request.** If more than the complimentary 5 hours will be required to search for and retrieve the documents, please advise the above-named officer immediately, so that we may inform the requester of a fee assessment.
3. If the search and retrieval can be carried out within 5 hours, **please begin the**

search for the relevant documents.

4. Once the search has been completed, **please review the documents for sensitive information and provide your recommendations concerning any exemptions from disclosure that you consider applicable pursuant to sections 13-24 and 26 of the Act (copy attached), and indicate whether the documents may be "severed" so as to release non-exempt portions. Please consider, also, whether any of the documents may be outside the scope of the Act, pursuant to sections 68 and 69 (copy attached).**

5. **Please forward copies of the documents to this Division with your detailed recommendations** concerning release, exemption/exclusion and severance of information noted on the copies. In view of the thirty day deadline that the Act imposes on the Minister of Foreign Affairs for responding to this request, we would be grateful to receive your response **no later than December 11, 1998.**

6. As part of a comprehensive streamlining of the access process in the Department, Executive Committee has agreed on changes to the relevant communications procedures. The Media Office (BCM) now has overall responsibility for managing access-related communications issues. BCM will work with you in identifying any communications sensitivities related to this access request. **If a Q&A is warranted, you should send a current Q&A (focussed on the release) to BCM (with a copy to DCP) when you send the documents that you have retrieved to DCP. If the release of the documents does not raise communications sensitivities warranting a Q&A, please so indicate in your reply to this Division (copy to BCM).**

7. Your assistance in allowing the Minister to discharge his obligations under the *Access to Information Act* is very much appreciated.

Daniel Daley  
Director  
Access to Information and  
Privacy Protection Division

**2. Do OPIs generally observe time limits for responding to the ATI office?**

\_\_\_ Always, \_\_\_ almost always, x sometimes, \_\_\_ rarely, \_\_\_ never.  
Percentage of requests: 25%

**3. What action is taken when an OPI is late in providing records? (Please provide any written documentation.)**

- Uniform reminder memo plus e-mail and telephone call.
- Attached is a copy of our memo to OPIs reminding them that we have not received their response to our tasking memo.

**The following text is extracted from the sample OPI follow-up memo from DCP, dated September 8, 1998:**

1. This is further to our memorandum of August 14 and telephone conversation between

XXXXXXXXXX and XXXXXXXXXXX on August 20, 1998 concerning a request under the *Access to Information Act* on the topic of DFAIT & Intl Org for Migration and Intl Cttee of Red Cross re Cambodia.

2. As you are aware, the *Access to Information Act* requires that the Department respond to all Access to Information requests within the legislative deadline. We still have not received a response to our memorandum of August 14, 1998.

3. The Department must respond by September 14, 1998. We would, therefore, be grateful for your response by September 11, 1998. Should you have any questions about this access request, please call Louise Benoit at (613) 944-2433.

Daniel Daley  
Director  
Access to Information and  
Privacy Protection Division

## Processing—Other Areas:

### A. Legal Services:

1. **Are ATI requests submitted to this area for review/approval/sign-off?**

Always;  almost always;  sometimes;  rarely;  never  
Percentage of requests: 5%

- The Division consults with the Justice Legal Services Division (JUS) principally with respect to privacy issues.
- Referrals to the PCO with respect to s. 69 issues take place through JUS.

2. **What is the expected turnaround time for requests submitted to this area? (Please provide any written documentation.)**

- Not applicable.
- Varies greatly with the complexity of the case.

3. **What action is taken when this area does not meet the turnaround date? If a follow-up is sent, indicate how many additional days are given for an expected response. (Please provide any written documentation.)**

- There is no routine procedure.

### B. Public Affairs /Communications:

1. **Are ATI requests submitted to this area for review/approval/sign-off?**

Always;  almost always;  sometimes;  rarely;  never  
Percentage of requests: 42%

2. **What is the expected turnaround time for requests submitted to this area? (Provide any written documentation.)**

5 days.

3. **What action is taken when this area does not meet the turnaround date? If a follow-up is sent, indicate how many additional days are given for an expected response. (Please provide any written documentation.)**

- Telephone call is all that is required under our new system.

### **C. Ministers' Offices:**

1. **Are ATI requests submitted to this area for review/approval/sign-off?**

Always;  almost always;  sometimes;  rarely;  never

- They are only submitted when the Minister's office asks to see them.

Percentage of requests: 65%

2. **What is the expected turnaround time for requests submitted to this area?**

**(Please provide any written documentation.)**

7 working days.

3. **What action is taken when this area does not meet the turnaround date? If a follow-up is sent, indicate how many additional days are given for an expected response. (Please provide any written documentation.)**

- Telephone calls.

- E-mail.

- Weekly report shows where it is.

- Scheduled to be released memo.

### **D. Deputy Minister's Office:**

1. **Are ATI requests submitted to this area for review/approval/sign-off?**

Always;  almost always;  sometimes;  rarely;  never

Percentage of requests: 2%

2. **What is the expected turnaround time for requests submitted to this area? (Please provide any written documentation.)**

       Days.

- Formal procedures are not required.

3. **What action is taken when this area does not meet the turnaround**

date? If a follow-up is sent, indicate how many additional days are given for an expected response. (Please provide any written documentation.)

- Not applicable.

## E. Other Areas:

If other areas are included in the processing/approval process of access requests, which ones? And provide the following information for each:

Director General, Executive Services.

1. **Are ATI requests submitted to this area for review/approval/sign-off?** X Always; \_\_\_ almost always; \_\_\_ sometimes; \_\_\_ rarely; \_\_\_ never  
Percentage of requests: 100%
2. **What is the expected turnaround time for requests submitted to this area?**  
(Please provide any written documentation.)  
Same day.
3. **What action is taken when this area does not meet the turnaround date? If a follow-up is sent, indicate how many additional days are given for an expected response. (Please provide any written documentation.)**  
- Not applicable.

## Fees:

1. **Do you have a fee policy? (If yes, please provide a copy.)**  
x yes; \_\_\_ no  
- A copy of the DFAIT fee policy is attached.

January 1985

Access to Information Requests  
Policy of the  
Department of External Affairs  
Regarding Fees

### I BACKGROUND

This policy is based on the provisions of Section 11 of the Access to Information Act, Section 7 of the Regulations Respecting Access to Information and the relevant Sections of

Part II of the Treasury Board Interim Policy Guide (2.3(d), 2.7, 2.7.1, 2.7.2 and 2.7.3). We have summarized these as follows:

1. Section 11 of the Act and Section 7 of the Regulations provide that an applicant who makes a formal request for information may be required to pay a fee for:
  - (a) Making an application;
  - (b) The costs of reproducing a record;
  - (c) The time taken to search for a record or prepare any part of it for disclosure where the time exceeds five hours;
  - (d) Producing a computer record described in subsection 4(3) of the Act.
2. Fees cannot be charged for:
  - (a) the cost of reviewing documents to determine whether they are exempt or excluded;
  - (b) maintaining statistics or documentation relating to administration of
  - (c) filing (including the refiling of records);
  - (d) providing facilities for processing requests or public access; or
  - (e) shipping documents to the applicant.
3. All fees must be paid by an applicant before access is given. Payment of substantial sums should be made by certified cheque or money order payable to the Receiver General for Canada.
4. A deposit may be required to be paid before search and production of the record is undertaken or before the record is prepared for disclosure.
5. If the required fee or deposit is not received, active processing of the request should cease. Since the applicant has one year from the date his request was received to complain to the Information Commissioner about the fees, the government institution should be prepared to resume processing at a later date.
6. If the deposit paid (based on estimated cost) exceeds the actual cost of providing access, a refund shall be made of the portion paid in excess by the applicant. Deposits may also be refunded if fees are waived by the government institution at a later stage in processing.
7. Section 11(6) of the Act permits the head of a government institution to waive, reduce or refund any fees payable under the Act and the Regulations. The decision to waive, reduce or refund fees should be made on a case-by-case basis by assessing:
  - (a) whether the information is normally made available without charge; and
  - (b) the degree to which a general public benefit is obtained through the release of the information.
8. The circumstances of the application and the applicant's reasons for seeking information may be taken into consideration in a fee waiver decision, even though these are not proper factors to consider in deciding whether or not to grant access.
9. Government institutions should consider waiving the requirement to pay fees, other



- than the application fee, if the amount payable is less than \$25.00.
10. Fee waivers shall be signed by the person designated in writing for that purpose by the head of the institution.
  11. Government institutions shall include, in their annual reports to Parliament, a description of their policies and practices relating to the waiver of fees.

## II DEPARTMENTAL POLICY

Taking account of the above provisions and in the light of experience to date, the departmental policy relating to the charging, collection and refund of fees has been established as follows:

### Application Fees:

1. The \$5.00 application fee must be received before processing of a request begins. Refund of the application fee will be considered if the applicant withdraws the request before processing begins or if the information sought is already in the public domain.

### Estimate of Cost:

2. If the estimated cost of search and preparation of documents is less than \$100.00, the applicant will be informed and will normally be required to pay the amount in full, before processing of the request begins. If the applicant has indicated that he wishes to receive copies of the releasable documents, the photocopying costs and any other outstanding charges must be paid before access is given. The applicant will be reminded that photocopying costs at 20¢ a page can be reduced or eliminated if he only wishes to examine the releasable documents and does not require copies.
3. Some requests involve a large volume of documents and the costs of search and preparation of these documents can be high (as much as \$2,000.00 in our experience to date). In such cases, a deposit of approximately 50 per cent should be requested before processing begins.
4. As a rule, applicants should be requested to submit certified cheques or money orders payable to the Receiver General for Canada.
5. If the estimated cost exceeds the actual cost, a refund of the portion paid in excess will be made. In calculating costs, the five hours of free time permitted should be taken into consideration and only the remaining time calculated at \$10.00 per hour (\$2.50 per quarter hour).

### Transfer of Request to Another Government Institution Having a Greater Interest:

6. The transfer of a request to another government institution must take place within 15 days of receipt. Consultation with, and agreement of, the other institution are necessary in order to transfer a request. In such cases, the application fee should normally be deposited immediately on receipt. However, if it is obvious that the request was sent to this Department incorrectly and agreement to transfer it can be accomplished without delay, the application fee should not be deposited and should, instead, be sent to the other government institution along with the request.

Waiver of Fees:

7. Fees, other than the application fee, will be waived if the amount payable is less than \$25.00.
8. As regards fees of \$25.00 or more, the decision to waive, reduce or refund fees should be made on a case-by-case basis as follows (in accordance with Section 1.7 above):
  - (a) where the information being provided is normally made available without charge, when requested informally, the fee will be waived;
  - (b) Pending the development of guidelines as to what constitutes “a general public benefit”, the fee will not be waived on this account.
9. The person designated by the Secretary of State for External Affairs, as head of the institution, to sign fee waivers is the departmental Coordinator for Access to Information and Privacy.

**FTE/Operating Budgets:**

1. **Which division/unit is responsible for budget allocations for the ATI office?**  
Executive Services Bureau
2. **Are ATI activities (i.e. FTE allocations) included in the strategic planning of the institution?**  
yes.
3. **What is/was the salary dollar budget for the ATI office for the fiscal periods shown below?**  
1998/1999: \$ 335,000; number of person years 7 (Does not include recent PSAC contract settlement.)  
1997/1998: \$ 335,000; number of person years 7  
1996/1997: \$ 317,000; number of person years 7
4. **What is/was the operating budget for the ATI office for the fiscal periods shown below?**  
1998/1999: \$ 191,000  
1997/1998: \$ 191,000  
1996/1997: \$ 176,000

5. **If possible, please provide a breakdown of how much of the operating budget for the ATI office was used or set aside for training and/or training materials (manuals, information sheets, directives, etc) for the fiscal periods shown below?**

1998/1999: \$ \_\_\_\_\_

1997/1998: \$ \_\_\_\_\_

1996/1997: \$ \_\_\_\_\_

- Training is paid for from the departmental training budget.
- The Division's contract with MPRSYS Inc. for ATIPflow includes updates of the system, maintenance and the training of Divisional staff.

#### **IV. FAIT'S CORRESPONDENCE**

In a letter addressed to the Honourable John M. Reid, P.C., dated November 17, 1998, Mr. Donald W. Campbell, Deputy Minister of Foreign Affairs, the Department of Foreign Affairs and International Trade, said the following:

Congratulations on your appointment as the Information Commissioner of Canada.

Thank you for your letter of October 6, 1998, concerning the administration of the *Access to Information Act* in this Department. Your letter pointed to the problem of delays in responses by the Department (hereinafter "DFAIT") to requests under the Act, and it identified several steps that you planned to take in this regard.

I agree that there is a problem with the timeliness of the Department's responses to access requests, and I share your conviction that the problem must be dealt with expeditiously.

I have reviewed this issue with my colleague, the Deputy Minister for International Trade, and with the other members of DFAIT's Executive Committee (the seven assistant deputy ministers and the Legal Adviser.) We have decided on, and the Department is implementing, a number of measures aimed at streamlining every stage of the access procedures, promoting a more timely focus on access requests and achieving compliance with the thirty day deadline in the Act. Some key elements of the changes are summarized below.

##### I. Communications Advice

Your letter noted, correctly, that the Department's process for preparing communications advice on potentially sensitive releases has been a significant source of delay. Formerly, the Communications Bureau conducted its 'communications assessments' after the proposed release packages had been prepared. Under the new procedure, as soon as an access request is received by the Department, the Media Office contacts the responsible line division to identify any communications sensitivities, and the line division prepares communications advice to the Ministers, as required, while it is assembling and reviewing the documents that respond to the request.

Integrating the retrieval and review of the documents with the assessment of communications sensitivities will speed up the processing of access requests.

II. Line Divisions

We recognize that securing the commitment of the Department's line divisions is critical to our ability to bring the Department into compliance with the deadline in the Act. We are aware, also, that there has been a problem with the priority assigned by some divisions to access to information.

We have, accordingly, asked all of the assistant deputy ministers and the Legal Adviser to brief their subordinate managers on the new access to information procedures and to ensure that their divisions give timely attention to access requests.

As well, the Deputy Minister for International Trade and I wrote last week to all directors general and directors at headquarters, to apprise them of the seriousness of the delay problem in DFAIT and to enlist their support in resolving it.

III. Ministers' Offices

In contrast with DFAIT's past practice, copies of proposed release packages are now only being referred to the Ministers' offices for review when the Ministers' offices specifically request them, thus avoiding unnecessary referrals. We have, moreover, shortened the time allocated to the Ministers' offices for the review of the release packages.

I can assure you that the Department intends to comply with the *Access to Information Act* in all respects, including timeliness. With this objective in mind, the senior management of the Department will be reviewing the implementation of the new access procedures during the next few months, to confirm that they yield the required results.

I look forward to cooperating with you to ensure that requesters under the *Access to Information Act* obtain the information to which they are entitled, within the time limit allowed.

Daniel Daley  
Access to Information and  
Privacy Protection Division  
992-1487

PROTECTED  
October 14, 1998

DCP-1950

**Action Memorandum for: EXECUTIVE COMMITTEE**

**ISSUE:            *Access to Information Act:*  
Proposed Departmental Procedure for Handling Requests**

**RECOMMENDATIONS:**

1.       I recommend that Executive Committee approve the proposed Departmental procedures, described in Attachments A and B, for the processing of requests under the *Access to Information Act*.

2.       I further recommend that instructions be issued from USS and DMT to all Departmental staff, particularly Directors and Heads of Mission, on their responsibilities in assisting the Department to comply with its obligations under the Act.

3. I recommend, as well, that USS and DMT inform FAIT's Ministers of:
- the seriousness of the current delays in the processing of access requests;
  - The costs to the Department and the Ministers if this problem is not resolved effectively;
  - The measures that the Department is taking to eliminate delays at all stages in the access process; and
  - The need, as part of the streamlining that is being done throughout the process, to clarify the role of Ministerial staff in the process - i.e. that they have the right to be notified of a request and to receive communications advice concerning the release, but that they are not to decide what may be released.

#### **CONSIDERATIONS AND CONSULTATIONS:**

4. The Minister of Foreign Affairs is responsible for ensuring that DFAIT complies with the *Access to Information Act*; officials administer the Act within the Department on behalf of the Minister, through delegated authority.

5. The Act requires the Department to respond to a request within thirty days of its receipt. This time limit may be extended for a reasonable period, but only on the grounds specified in the Act.

6. When there is a complaint to the Information Commissioner concerning a delay in responding to an access request, an investigation follows immediately. If the Commissioner determines that the Department has failed to respond within the deadlines in the Act, **the Minister is deemed to have refused to provide access**, in contravention of the Act.

7. There has, over the past several years, been an increasing problem of delays in the Department's responses to access requests. The following recent developments make it clear that the delay problem has significant consequences for the Department and its Ministers:

- The Information Commissioner's annual report to Parliament for 1997-1998 showed that DFAIT was one of the five most-complained-against Government institutions under the *Access to Information Act* during the year. The majority of the complaints against DFAIT concerned delays; and
- The Information Commissioner wrote to USS last week to raise his concerns about the Department's record of delays. He indicated that his Office would be doing a "review of the matter of response times in [the] department" (among others), starting toward the end of this calendar year. The Commissioner's letter states, in part:  
"I intend to make my views known to Parliament in two ways. First, the results of my review will be included in my 1998-1999 Annual Report to Parliament. As Well, I intend to provide a separate performance report card to the appropriate parliamentary committee in advance of your Minister's appearance on departmental estimates.

8. The factors responsible for FAIT's failure to meet the deadlines in the Act are mainly the following:

- The slowness of some line divisions (and missions abroad) in discharging their responsibility to identify the documents that respond to a request and make recommendations for the exemption and exclusion of information from release;
- Delays in the preparation of "communications assessments" concerning the proposed

- releases for the Ministers' offices; and
- The length of time taken by the Ministers' offices to approve the release packages and the accompanying communications materials.

(The Commissioner's letter states: there appears to be a cumbersome approval process at [DFAIT], specifically in the Communications Branch and the Minister's office, which might account for delays in providing ... responses to requesters." I can confirm that this is an area where the Department has lost inordinate amounts of time.)

9. I consider that neither a fine tuning of the current procedures for handling access requests nor a repetition of the periodic "pep talks" to the Department's staff on access to information will be adequate to bring the Department into compliance with the deadlines in the Act. The seriousness of FAIT's delay problems suggests that significant changes to our access procedures are required.

10. Attachment A sets out the proposed procedure. This proposal, which was prepared in consultation with BCD, focuses on expediting the communications and approval phases in the process, while ensuring that Ministers continue to receive effective communications support. The principal features of the new procedure are as follows:

- For each request, the director of the responsible line division will be required to advise the Access to Information and Privacy Protection Division (DCP) of whether the release of the documents raises any communications implications. If there are communications implications, the line division will be required to provide a current Q&A, focussed specifically on the release of the documents. The Q&A will be forwarded by DCP to the Media Relations Office (BCM) and the Minister's office. In view of the requirement for the line division to assess the communications implications of a proposed release package and to provide a Q&A as appropriate, the line division will be given ten working days to respond to DCP, rather than the current seven;
- BCM will be the point of contact for line Divisions for advice on the media sensitivity of issues, and on the preparation of Qs&As;
- Ministers' offices will not be involved in the approval of releases. They will receive the following documents: the Q&A, if one is prepared; and a copy of the documents to be released, if they specifically request a copy. DCP will also provide them weekly with: the report on active access to information requests; and the schedule of releases for the following week; and
- Five working days after the Q&A for an access request has been delivered to MINA and/or MINT, the documents will be released to the requester.

RESOURCE IMPLICATIONS: Nil

COMMUNICATIONS IMPLICATIONS: Nil

Hugh Stephens  
Assistant Deputy Minister  
Communications and Policy Planning

Attachment [See response under ATI OFFICE, 8. Proposed ATI Procedure-Principal Steps.]