



An Roinn Gnóthaí
Eachtracha agus Trádála
Department of
Foreign Affairs and Trade

Mr. Simon Gillespie

Constituency Manager

Pearse Doherty TD

Our Ref: FOI/Req/2021/008

8 February 2021

Dear Mr. Gillespie

I refer to your request made under the Freedom of Information Act 2014 for access to records held by this Department, as follows:

1. All correspondence, excluding correspondence received from members of the public, received and sent by the then Tánaiste Eamonn Gilmore, or by officials on his behalf; from and to any other Minister or officials in his or her Department; in so far as such correspondence relates to the 2013 deal recognising a British Exclusive Economic Zone in the vicinity of Rockall; and where such correspondence was received or sent in the two-month period prior to the 28th March 2013. (The deal was entitled the "Agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland establishing a Single Maritime Boundary between the Exclusive Economic Zones of the two countries and parts of their Continental Shelves")

2. All correspondence received and sent by the then Tánaiste Eamonn Gilmore, or by officials on his behalf, from or to the Scottish Government in so far as it relates to the 2013 deal recognising a British Exclusive Economic Zone in the vicinity of Rockall. (The deal was entitled the "Agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland establishing a Single Maritime Boundary between the Exclusive Economic Zones of the two countries and parts of their Continental Shelves")

3. *All correspondence received and sent by the then Tánaiste Eamonn Gilmore, or by officials on his behalf, from or to the British Government in so far as it relates to the 2013 deal recognising a British Exclusive Economic Zone in the vicinity of Rockall. (The deal was entitled the "Agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland establishing a Single Maritime Boundary between the Exclusive Economic Zones of the two countries and parts of their Continental Shelves")*

I refer also to the acknowledgement of your request which was sent to you on 15 January 2021 and to our telephone conversation of 2 February in which you confirmed that the requests at 2. and 3. above concern correspondence within the same date range as that requested at 1. above.

I have identified 20 records that fall within the scope of your request. The records are listed in the schedule attached. I have made a decision to grant your request in respect of 18 records and to refuse it in respect of two. The 18 records being released are contained in two separate pdf documents attached to this letter.

The two records that are not being released are exempt under sections 28(1)(a) and 30(1)(c) of the 2014 Act. Section 28(1)(a) provides that 'A head may refuse to grant an FOI request if the record concerned has been, or is proposed to be, submitted to the Government for consideration by a Minister of the Government or the Attorney General and was created for that purpose.' Section 30(1)(c) provides that 'A head may refuse to grant an FOI request if access to the record concerned could, in the opinion of the head, reasonably be expected to disclose positions taken, or to be taken, or plans, procedures, criteria or instructions used or followed, or to be used or followed, for the purpose of any negotiations carried on or being, or to be, carried on by or on behalf of the Government.'

I wish to note that notwithstanding the suggestion in your request that the 2013 Agreement '*recognis(es) a British Exclusive Economic Zone in the vicinity of Rockall*', the purpose of the 2013 Agreement was in fact to establish boundaries between the exclusive economic zones and continental shelves of Ireland and the UK. As the Minister for Foreign Affairs, Simon Coveney, TD, pointed out in Dáil Éireann in response to a parliamentary question on 18 June 2019, largely due to efforts made by Ireland throughout the 1970s international law is now clear that uninhabitable rocks such as Rockall have no entitlement to a continental shelf or an exclusive economic zone. Accordingly the issue of sovereignty over such a rock is irrelevant for the purposes of establishing boundaries between the continental shelves and exclusive economic zones of neighbouring states.

Both Ireland and the UK extended their then 12 mile Exclusive Fisheries Zones (EFZs) to 200 miles in 1977 following the decision of the European Council that the member states of the EEC should extend their fisheries jurisdiction to these limits. This followed international agreement at the UN Conference on the Law of the Sea on establishment of the new 200 nautical mile exclusive economic zone in international law. While Rockall has been located within the limits of the UK's 200 mile zone since that time, it had no bearing on the 2013 Agreement.

Right of Appeal

Should you wish to appeal this decision, you may do so in writing to the Freedom of Information Unit, Department of Foreign Affairs and Trade, 76-78 Harcourt Street, Dublin 2 or by email to foi@dfa.ie. A fee applies for an appeal for access to non-personal information; the level of this fee has been set at €30, (€10 for medical card holders). A copy of the medical card should be provided to avail of the reduced fee. For methods of payment, please contact FOI Unit at foi@dfa.ie, or 01-4082618.

You should make your appeal within 4 weeks (20 working days) from the date of this notification. However, the making of a late appeal may be permitted in appropriate circumstances. The appeal will involve a complete reconsideration of the matter by a more senior member of the staff of this Department.

Yours sincerely

Declan Smyth
Legal Division

SCHEDULE OF RECORDS					
Date		Record Description	Number of pages	Granted/Part-Granted/Refused	Section exempted under:
1.	25 Feb 2013	Draft Memorandum for Government seeking authority to arrange for signature of the Agreement, circulated by e-cabinet	9	Refused	Ss. 28(1) and 30(1)(c)
2.	26 Feb 2013	Observations of the Minister for Transport, Tourism and Sport	1	Granted	
3.	28 Feb 2013	Observations of the Minister for Communications, Energy and Natural Resources	1	Granted	
4.	28 Feb 2013	Observations of the Minister for Defence	1	Granted	
5.	28 Feb 2013	Observations of the Minister for Agriculture, Food and the Marine	1	Granted	
6.	28 Feb 2013	Observations of the Minister for Arts, Heritage and the Gaeltacht	1	Granted	
7.	1 Mar 2013	Observations of the Minister for Environment, Community and Local Government	1	Granted	
8.	1 Mar 2013	Memorandum for Government seeking authority to arrange for signature of the Agreement	10	Refused	Ss. 28(1) and 30(1)(c)
9.	5 Mar 2013	e-mail from Deputy Legal Adviser, UK Foreign and Commonwealth Office, to Deputy Legal Adviser, Department of Foreign Affairs and Trade entitled	1	Granted	

		'Agreement on EEZ and CS Boundaries'			
10.	5 Mar 2013	e-mail from Deputy Legal Adviser, DFAT, to Deputy Legal Adviser, UK FCO, entitled 'Agreement on EEZ and CS Boundaries'	1	Granted	
11.	6 Mar 2013	e-mail from Deputy Legal Adviser, UK FCO, to Deputy Legal Adviser, DFAT, entitled 'Agreement on EEZ and CS Boundaries'	1	Granted	
12.	6 Mar 2013	e-mail from Deputy Legal Adviser, DFAT, to Deputy Legal Adviser, UK FCO, entitled 'Agreement on EEZ and CS Boundaries'	1	Granted	
13.	6 Mar 2013	e-mail from Deputy Legal Adviser, UK FCO, to Deputy Legal Adviser, DFAT, entitled 'Agreement on EEZ and CS Boundaries'	1	Granted	
14.	8 Mar 2013	e-mail from Deputy Legal Adviser, DFAT, to Deputy Legal Adviser, UK FCO, entitled 'Agreement on EEZ and CS Boundaries'	1	Granted	
15.	8 Mar 2013	e-mail from Deputy Legal Adviser, UK FCO, to Deputy Legal Adviser, DFAT, entitled 'Agreement on EEZ and CS Boundaries'	1	Granted	
16.	8 Mar 2013	e-mail from Deputy Legal Adviser, DFAT, to Deputy Legal Adviser, UK FCO, entitled 'Agreement on EEZ and CS Boundaries'	7	Granted	
17.	13 Mar 2013	e-mail from Deputy Legal Adviser, DFAT, to Mark Binnington, British Embassy Dublin, entitled 'EEZ Agreement'	1	Granted	

18.	13 Mar 2013	e-mail from Deputy Legal Adviser, UK FCO, to Deputy Legal Adviser, DFAT, entitled 'EEZ Agreement'	1	Granted	
19.	19 Mar 2013	e-mail from Mark Binnington, British Embassy Dublin, to Deputy Legal Adviser, DFAT, to entitled 'Agreement on EEZ and CS Boundaries'	5	Granted	
20.	28 Mar 2013	e-mail from Deputy Legal Adviser, DFAT, to Mark Binnington, British Embassy Dublin, entitled 'Draft PR on the signing of the EEZ agreement'	2	Granted	
				Total number of pages: 48	