

Ms. M. Terhorst
mterhorst@amkoopman.nl
Date March 22, 2024
Subject Response to your Woo request

Director of Legal Affairs
Rijnstraat 8
2515 XP The Hague
P.O. Box 20061
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The Netherlands
www.rijksoverheid.nl
The Netherlands
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Contact

Directorate of Open Government
E woo@minbuza.nl

Dear Ms. Terhorst,

In your request of January 18, 2024, received by me
on the same day,
you requested my ministry **to disclose the letter
dated 16**

August 2023 from the Ministry of Foreign Affairs to the World Health Organization (WHO), expressing reservations regarding WHO's decision to amend the International Health Regulations of 2005.

Receipt of your request was acknowledged by e-mail on January 25, 2024.

On February 14, 2024, the decision period was adjourned by 2 weeks by e-mail.

With regard to your request for information, I inform you as follows

Legal framework.

Your request falls within the scope of the Woo. For the relevant Woo articles I refer you to the appendix.

Inventory of documents

Based on your request, a total of 1 document has been found. This document is included in an inventory list, which is attached as an appendix to this decision

is attached. The inventory list states the assessment of this document.

Decision

I decide not to disclose the inventoried document.

The inventory list indicates the ground for exception.

Date: March 22, 2024

Considerations

General consideration: openness to all

First, I would like to point out the following.

Everyone has the right to be able to request government information

without having to give a reason. This is stated in the first

article 1.1. of the Woo. This is an important citizen's right. Thereby

principle is that government information is public, unless there are

there are grounds for exceptions that limit this. The grounds for exceptions

are found in chapter 5 of the Woo. I must weigh the general interest of public access against the interests that the grounds for exceptions protect. In general, the rule is that when I provide information to you, it is public to everyone.

The Woo does not apply to information that is already public.

General principles in assessing the grounds for exception

The test against the grounds for exception is as follows. First I look at whether one of the grounds for exceptions applies. I usually do that per paragraph, sometimes per sentence. Then I see what kind of ground for exception it is.

If it is an absolute ground for exception, I may not provide the information. If it is a relative ground for exception, I have to make a balance between the general interest in disclosure and the

specific interest that the ground of exception protects. In doing so, the interest of publicity weighs heavily.

The interest of the Netherlands' relations with other countries and States and with international organizations Pursuant to Article 5.1, second paragraph, opening words and under a, of the Woo

No information shall be disclosed if this affects the relationship of the Netherlands with other countries and states and with international organizations damage. This ground for exception is intended to prevent the statutory duty to provide information would result in that Dutch international relations would suffer damage. That is the case, for example, if, as a result of the provision of information pursuant to the law, it is anticipated that international contact will

will become more difficult at certain points, with the result, for example, that that the maintenance of diplomatic relations, or the conduct of bilateral consultations with other countries, states or international organizations would become more difficult than before, or that people in those other countries States or international organizations would be less inclined to cooperation than before.

It is noted here that for the existence of the presumption that diplomatic relations will deteriorate as a result of the disclosure of certain information does not always require a concrete indication in the form of an express notification from another country, state or international organization to non-disclosure necessary, if from the nature and content of the information requested may indicate that it is confidential.

I further note that invoking this ground for exception is not only reserved for situations involving (diplomatic) documents relating to diplomatic relations with another state or states.

states. Also in situations involving internal, interdepartmental or other e-mail exchanges or diplomatic communication and in which discussed about ongoing diplomatic processes or, for example, a confidentially shared vision or a proposal by a member state, invoking this exception invoking this ground for exception may be appropriate.

Diplomatic traffic

The Ministry of Foreign Affairs is responsible for all diplomatic contacts between the Netherlands and other countries c.q.

international organizations. **It is of great importance that countries and organizations can rely on the confidential nature of these contacts. This concerns a letter from the Ministry**

of Foreign

Affairs to WHO. I anticipate that in the event of disclosure of diplomatic communications in the future may be less inclined to provide me with information, or that relations with this international organization may be more awkward in the future. Considering the importance of international and bilateral relations and the public interest in disclosure, I find, in view of the foregoing, that the former outweigh the former. I will therefore not disclose this information. At the inventory list, the application of this ground for exception is indicated by the designation "5.1.2.a".

Method of disclosure and posting on the Internet. This decision shall be posted at www.rijksoverheid.nl so that it is available to any everyone.

If you have any questions regarding this decision,

please contact

the Directorate of Open Government at
woo@minbuza.nl.

The Minister of Foreign Affairs, on behalf of,
Director of Legal Affairs,

[This letter does not bear a signature. In a formal
and secure

environment, it is recorded that the decision maker
agrees to the contents
of this document and its transmission].

J.O. van der Loo

Against this decision you may, within six weeks of
the day on which it was published

submit a notice of objection, addressed to the
Minister of Foreign

Affairs, attn. Directie Juridische Zaken, postbus
20061, 2500 EB Den Haag.

Appendix 1 - relevant articles from the Woo
Article 1.1.

Everyone has the right of access to public
information without having to declare an
interest, subject to restrictions imposed by this Act.

Article 2.1

In this Act and the provisions based on it, the following definitions shall apply:

document: a document made or received by a body, person or college referred to in Article 2.2, first paragraph, made or received written document or other set of

recorded data which by its nature is related to the public task of

that body, person or college;

environmental information: that which is understood to mean in article 19.1a of the Wet environmental management;

Our Minister: Our Minister of the Interior and Kingdom Relations;

public information: information laid down in documents held by an organ

body, person or college as referred to in Article 2.2, first paragraph, or information which can be claimed by an administrative body pursuant to Article 2.3.

Article 2.5

In applying this Act, the general interest of openness of public information for democratic society.

Article 4.1

1. Any person may address a request for public information to an administrative body or an institution, service or company working under the responsibility of an administrative body institution, service or company operating under the responsibility of an administrative body. In the latter case, the responsible administrative authority shall decide on the request.
2. A request may be made orally or in writing and may be sent electronically sent in the manner indicated by the administrative body.
3. The requester does not need to have an interest in the request.
4. In making the request, the applicant shall specify the matter or document
The applicant shall specify in his application the matter or related document on which he wishes to receive information.
5. If an application is formulated in too general a manner, the administrative body will request

within two weeks of receipt of the request, the administrative body shall ask the applicant to clarify the request and specify the request and shall assist the applicant in doing so.

6. The administrative body may decide not to process a request if the applicant does not cooperate with a request for clarification as referred to the fifth paragraph. In deviation from Article 4:5, fourth paragraph, of the General Administrative Law Act, the decision not to deal with the request shall be announced to the applicant within two weeks after the request has been made more precise or after the time limit set for this purpose has period set for that purpose has expired unused.

7. A request for information shall be granted subject to the provisions of chapter 5.

Article 5.1

1. The disclosure of information pursuant to this Act shall be withheld in so far as to the extent that doing so:

- a. could endanger the unity of the Crown;
- b. might prejudice the security of the State;
- c. involves business and manufacturing information that is confidential to the Crown by natural persons or legal persons have confidentially disclosed to the government;
- d. concerns personal data as referred to in paragraph 3.1 respectively paragraph
- e. concerns numbers that serve to identify persons prescribed by law or order in council as referred to in article 46 of the Dutch General Data Protection Regulation Implementation Act, unless the provision clearly does not violate privacy.

2. The disclosure of information shall also be withheld to the extent that the interest does not outweigh the following interests:
- a. the Netherlands' relations with other countries and states and with international organizations;
 - b. the economic or financial interests of the State,

other bodies governed by public law
bodies or administrative authorities, in the case of
environmental information only to the extent that
the
information relates to acts of a confidential nature;
c. the detection and prosecution of criminal
offenses;
d. the inspection, control and supervision by
administrative bodies;
e. the respect for privacy;
f. the protection of business and manufacturing
information other than that referred to in
subsection 1, section c.
competitively sensitive business and manufacturing
data;
g. the protection of the environment to which such
information relates;
h. the security of persons and companies and the
prevention of sabotage;
i. the proper functioning of the State, other public
bodies or
administrative bodies.

3. If a request for disclosure on one of the grounds
mentioned in subsection 2

paragraph 2 is rejected, the decision shall contain an explicit reasons.

4. Disclosure may be withheld temporarily if the interest of the addressee of the information to be the first to take cognizance of the information clearly requires it. The administrative authority shall communicate to the applicant the period within which publication will still take place.

5. In exceptional cases, disclosure of information other than

In exceptional cases, disclosure of information other than environmental information may also be withheld if disclosure would cause disproportionately prejudicial to an interest other than those mentioned in paragraphs 1 or 2 and the public interest in disclosure does not outweigh that disadvantage.

outweighs this disadvantage. The administrative authority shall base a decision not to disclose any information on this ground.

disclosure of any information on this ground with

regard to the same information not also on one of the grounds mentioned in the first or second paragraph. grounds.

6. The disclosure of information shall, notwithstanding subsection 1, subparagraph (c), in the case of environmental information shall also be withheld to the extent that it seriously prejudices the interest referred to in subsection 1 (c) and the public interest in the disclosure of information does not outweigh such harm. outweighs such harm.

7. Subsections 1 and 2 shall not apply to environmental information that relates to emissions into the environment.

Appendix II - Inventory List

No. Date ID Name Assessment Grounds

1 16-08-2023 1478380 Note verbal from BZ to WHO
Not Public 5.1.2a