

Request for report prepared by External Assessments Bureau

Legislation	Official Information Act 1982, s 6(a)
Agency	Prime Minister
Ombudsman	Sir Brian Elwood
Case number(s)	W34780
Date	February 1996

Request for reports on environmental damage resulting from French nuclear testing—good reason to refuse request under s 6(a) at time request refused—disclosure likely to prejudice the international relations of the Government of New Zealand

In August 1995, a journalist made a request for any reports prepared during the previous six months for the Prime Minister, his Department or any of his Ministers by the External Assessments Bureau or the Ministry of Foreign Affairs and Trade on the evidence of environmental damage as a result of French nuclear testing. The Prime Minister confirmed that no reports on this subject had been prepared by the Ministry of Foreign Affairs and Trade, but the External Assessments Bureau (EAB) had prepared a relevant report. He declined to make available a copy of this report under section 6(a) of the OIA on the basis that *'its release at this time would prejudice New Zealand's international relations'*.

The principal reason for the decision to withhold the EAB report at the time of the original request was that its release would risk undermining a key foreign policy objective of the New Zealand Government and thus prejudice New Zealand's international relations.

Even though he was not required to do so, the Prime Minister did consider whether there was an overall public interest in release of information contained in the EAB report. He concluded that there was no public information void which needed to be filled through release of the paper; a range of views about the environmental impact of nuclear testing had been reported in the media.

In withholding information under section 6(a), what has to be assessed is the nature of the prejudice or ‘harm’ which the holder of the information believes would be likely to result if the information was disclosed. The following factors are relevant:

- ‘who’ had prepared the report;
- ‘what’ the report said;
- the ‘context’ in which the report was generated; and
- ‘timing’—the stage to which formulation and implementation of the foreign policy objective had progressed when the Prime Minister made his decision to withhold the report.

EAB, which prepared the report, is an autonomous intelligence and research unit located in the Department of the Prime Minister and Cabinet. It prepares reports in various formats on external events and trends affecting New Zealand’s interests. These cover a range of political, economic, strategic and scientific issues. The EAB’s role is to evaluate and assess these issues in support of policy formulation. Their objective, and the reason for the Bureau’s autonomy, is to provide a candid, objective examination of an external issue, distinct from a consideration of the policy response the Government of the day might wish to make to that situation.

The reports are prepared by the Bureau’s analysts, drawing on a range of source materials including both publicly available material such as press reports and academic articles and classified material. The reports are prepared primarily for the Prime Minister but are normally distributed to senior Ministers and officials in relevant Departments with the extent of distribution being governed by the content of the paper and the classification of the relevant material.

The paper at issue was examined. It had been prepared when the Government was considering policy options in response to France’s decision to resume nuclear testing in the South Pacific. The Government’s policy objective had been set out previously in public statements and was not limited only to seeking an end to the current French nuclear testing programme in the South Pacific. It also extended to the adoption by the international community of a comprehensive test ban treaty and ensuring a full monitoring programme to assess the effects of nuclear testing in French Polynesia on the environment. It was accepted that, given the content of the report and the context in which it was generated, its disclosure at the time the Prime Minister refused the request would have been likely to prejudice the international relations of the Government of New Zealand and the reason for withholding had been established.

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