



Foreign &
Commonwealth
Office

South Asia Department
Foreign and Commonwealth Office
King Charles Street
London SW1A 2AH

Website: <https://www.gov.uk>

18 August 2014

FREEDOM OF INFORMATION ACT 2000 REQUEST REF: 0699-14

Thank you for your email of 18 July asking for information under the Freedom of Information Act (FOIA) 2000. You wrote:

On the 19th of June 2014 I asked the Department for Business Innovation and Skills whether or not the UK Government has been taken to arbitration for breaching any Bilateral Investment Treaties, and if so, the outcomes of any arbitration including a brief summary of the case and the amount that had to be paid including legal costs.

I was told, "The Department holds information on one case where a claim for arbitration against the UK Government was commenced...."

....The Foreign and Commonwealth Office had policy responsibility for Bilateral Investment Treaties for most of the relevant period, and was accordingly responsible for handling the arbitration."

I would therefore like to ask:

- 1. Who brought forward the above case against the UK Government?*
- 2. What specifically were the individuals grievances, i.e. what actions had the UK government taken to have allegedly breached certain provisions of the Treaty?*
- 3. What were the outcome of the arbitration action taken by this individual, specifically the ruling, a brief overview of how that decision was reached and any costs that the government incurred including legal costs.*
- 4. Whether or not the UK Government has been taken to arbitration for any other alleged breaches of Bilateral Investment Treaties, and if so the outcomes of any arbitration including a brief summary of the case and the amount that had to be paid including legal costs.*

I am writing to confirm that we have now completed the search for the information which you requested. I can confirm that the Foreign and Commonwealth Office (FCO) holds some, but not all, of the information you have requested.

Information requested for Questions 1-3 is exempt as covered by section 27 – international relations of the FOIA. We acknowledge that releasing information on this issue would increase public knowledge about the arbitration process for the breaching of Bilateral Investment Treaties. However, the effective conduct of international relations depends upon maintaining trust and confidence between the UK and International Organisations. In this case the exemption applies to the UK's relationship with the UN Commission on International Trade Law (UNCITRAL). UNCITRAL is the core legal body of the UN system in the field of international trade law including arbitration. The disclosure of this information could prejudice the UK's relationship with UNCITRAL potentially making it reluctant to share sensitive information with the UK Government in future and may be less likely to respect the confidentiality of information supplied by the UK Government, to the detriment of UK interests. For these reasons, we consider that in all the circumstances of the case, the public interest in maintaining this exemption outweighs the public interest in disclosing the information as covered by section 27 (1)(b).

On Question 4 above, Section 12 of the FOIA makes provision for public authorities to refuse requests for information where the cost of dealing with them would exceed the appropriate limit. The limit has been specified in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. For central government the appropriate limit is set at £600. This represents the estimated cost of one or more persons spending 3 ½ working days in determining whether the Department holds the information, and locating, retrieving and extracting it. Your request as presently formulated is widely-framed and I estimate that it will take more than 3 ½ working days to locate, retrieve and extract this information. In these circumstances we are not obliged under the FOIA to comply with your request. You may therefore wish to refine your request to narrow its scope to bring it within the appropriate limit by specifying specific treaties, countries or a specific range of time.

Yours sincerely,

India Desk Officer
South Asia Department



We keep and use information in line with the Data Protection Act 1998. We may release this personal information to other UK government departments and public authorities.