



Foreign & Commonwealth Office

Economics Growth and Business Department

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FREEDOM OF INFORMATION ACT 2000 – REQUEST REF: FOI 1151-16

Thank you for your email of 12 December 2016 asking for information under the Freedom of Information Act (FOIA) 2000. Your email request was 'to provide copy of the travaux préparatoires of the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Kenya for the Promotion and Protection of Investments, signed in Nairobi on 13 September 1999.'

We have now completed our search and consultation process and I can confirm that the Foreign and Commonwealth Office (FCO) does hold some information relevant to your requests.

Withheld

We have withheld some information under the following Freedom of Information Act provisions:

Section 27(1)(a) of the FOIA recognises the need to protect information that would be likely to prejudice relations between the United Kingdom and other states if it was disclosed. In this case, the release of information relating to commercial negotiations could harm our relations with Kenya.

The application of s.27(1)(a) requires us to consider the public interest test arguments in favour of releasing and withholding the information. We acknowledge that releasing information on this issue would increase public knowledge about our relations with Kenya. However, s.27 (1)(a) recognises that the effective conduct of international relations depends upon maintaining trust and confidence between governments. If the United Kingdom does not maintain this trust and confidence, its ability to protect and promote UK interests through international relations will be hampered, which will not be in the public interest. The disclosure of information detailing our relationship with the Kenyan Government could potentially damage the bilateral relationship between the UK and Kenya. This would reduce the UK government's ability to protect and promote UK interests through its relations with Kenya, which would not be in the public interest. For these reasons we consider that, the public interest in maintaining this exemption outweighs the public interest in disclosing it. Some of the information which has been withheld has been done so as it is exempt under section 40(2) of the Freedom of Information Act. Section 40(2) exempts personal

information from disclosure if that information relates to someone other than the applicant, and if disclosure of the information would, amongst other things, contravene one of the data protection principles in schedule 1 of the Data Protection Act. In this case, I believe disclosure would contravene the first data protection principle, which provides that personal data must be processed fairly and lawfully. Section 40(2) is an absolute exemption and the Foreign and Commonwealth Office is not obliged to consider whether the public interest favours disclosing the information.

Yours sincerely,

Economics Growth and Business Department