



Foreign &
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Office

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FREEDOM OF INFORMATION REQUEST (FOIA) REF: 1174-15
ENVIRONMENTAL INFORMATION REQUEST (EIR) REF: EIR021-15

Thank you for your email of 8 December 2015 asking for information under the Freedom of Information Act (FOIA) 2000. Your request was as follows:

'I would like to request, under FOIA , any available documents relating to Tobias Ellwood's March 2015 meeting with Shell to " Discuss situation in Iraq and region" – including any preparatory notes or emails, correspondence setting up the meeting, minutes, notes, follow-up and "thank you " emails or similar documents'

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) does hold information relevant to your request.

We have considered your request under the Freedom of Information Act 2000 (FOIA). Some of the information which you have requested constitutes environmental information for the purposes of the Environmental Information Regulations 2004 (EIRs). Accordingly, your request has been considered under the terms of both FOIA and EIR.

The information that the FCO can release to you is attached to this letter.

Some of the information you have requested is considered to be exempt from disclosure under FOI Section 43 (commercial interests), Section 27(1) (international relations), Section 35(a) (formulation of government policy), and Section 40 (personal information). We also judge that some of the information that the Department holds is exempt from disclosure under the exceptions in Regulations 12(3), 12(4)(e), and 12(5)(a) of the Environmental Information Regulations 2004 and is therefore also being withheld. Some of these exemptions are subject to a public interest test. The key public interest considerations which we have taken into account for these exemptions and exceptions are set out below.

We have withheld information under Section 35 (1)(a) of the FOIA .This is a qualified exception, which requires the FCO to consider carefully the balance of the public interest in releasing this information. Disclosure would assist transparency. However, the FCO considers that disclosure of this information would be likely to inhibit the free and frank

provision of advice and the free and frank exchange of views for the purposes of deliberation. There is a strong public interest in protecting the space Ministers and officials have to consider and discuss options, to ensure that full and proper consideration of policy is given. The candour of contributions to this process would be likely to be affected by officials' assessment of whether the content of such communications would be disclosed in the near future. This would have a negative impact on the quality of decision making, which is clearly not in the public interest. For these reasons, we consider that the public interest in withholding this information outweighs the public interest in release.

It is essential that civil servants are able to communicate with external parties with relevant knowledge and experience, including the company referenced within this information. This communication must include the ability to receive information which can be used to shape policy. If such information could not be received by interested parties and could not be recorded and disseminated internally, such as in the case of ministerial briefings, that would lead to significantly less effective policy making processes. We therefore take the view that there is a significant public interest in withholding internal communications under the EIRs regulations 12(4)(e). We have considered the importance of the public interest in disclosure of this information, including the presumption in favour of disclosure set out in regulation 12(2). Given the sensitivities around energy companies' long term economic decisions on future energy projects and portfolios, we considered that they would not share information with the Government if this was released. That information is critical to the Government's ability to judge and set future energy policy in which there is a clear public interest. Therefore, the balance of public interest is in favour of withholding this information.

We have withheld information under the FOIA Section 27(1)(a) and (c), relations between UK and any other state, and UK interests abroad. The application of these exemptions requires that the FCO consider carefully the balance of public interest in releasing the information. The FCO has taken into account that there is a general public interest in greater transparency in how Government operates and in demonstrating the methods of communication it conducts with other states. Open policy making may also lead to increased trust and engagement between citizens and government. However, with regard to this information we have had to balance the important public interest in disclosure of information against the public interest in protecting the UK's international relationships, in this case with a number of countries in the Middle East and North Africa region. We believe that publication of certain details would undermine the working relationship between the UK government and these governments. Further, disclosure of information which was shared in confidence, and is not already in the public domain, would reduce the willingness of these other governments to engage with the UK and would weaken the ability of the FCO to operate in the UK's national interest. We consider that these factors outweigh the public interest in releasing the information.

We have also withheld information under the EIR exception 12(5)(a) as its disclosure would adversely affect international relations and national security. This includes the UK's relationships with other national Governments and wider political discussions around the UK's future energy security. We have considered the importance of the public interest in disclosure of this information, including the presumption in favour of disclosure set out in regulation 12(2). However, where this information includes commentary or other views on ongoing activities in geopolitically sensitive regions, and revealing those views could be detrimental to the UK's international relations and objectives, we consider that the balance of public interest is in favour of withholding this information.

We are withholding information under Section 43(2) of the FOIA as release of the information would be likely to prejudice the commercial interests of any person (including the public authority holding it). This is a qualified exception which requires that the FCO consider the balance of public interest in releasing the information. The FCO believes that there is a

general public interest in energy policy issues, in greater transparency in how Government operates and improving trust and engagement between citizens and government. However, this also must be weighed against the need to allow those involved in business and commercial organisations the space to conduct their lawful business competitively and without fear of disclosure of sensitive commercial information. We consider that this transparency also poses risks to the protection of commercially confidential information. Release of confidential and commercially sensitive material would undermine the willingness of industry to discuss with Government matters of UK national interest. This would reduce the ability of government to support UK commercial objectives and weaken the UK's economic outlook. We consider that this factor outweighs the public interest in releasing the information.

Section 40(2) and (3) of the FOIA also provides an absolute exemption for personal data which then falls to be dealt with under the Data Protection Act 1998. Some of the information you have requested is personal data relating to third parties, the disclosure of which would contravene one of the data protection principles. In this case, our view is that disclosure would breach the first data protection principle. This states that personal data should be processed fairly and lawfully. It is the fairness aspect of this principle, which, in our view, would be breached by disclosure. In such circumstances, s.40 confers an absolute exemption on disclosure. There is, therefore, no public interest test to apply.

Once an FOI request is answered, it is considered to be in the public domain. To promote transparency, we may now publish the response and any material released on gov.uk in the [FOI releases](#) section. All personal information in the letter will be removed before publishing.

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Yours sincerely,

International Energy Unit



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.