



Foreign &
Commonwealth
Office

Africa Directorate
Foreign and Commonwealth Office
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26 April 2016

**Environmental Information Request Request: No 002 – 16 and Freedom of Information
Request: No 0236-16**

Thank you for your email of 23 February 2016 asking for information under the Environmental Information Regulations (EIRs) and under the Freedom of Information Act. In your request you asked for;

“The request:

I am seeking information relating to the following meetings between the Foreign Office Ministers and Shell.

<i>Minister</i>	<i>Date</i>	<i>Detail</i>
<i>Hugo Squire</i>	<i>9/7/2015</i>	<i>Update on Shell from Andy Brown</i>
<i>Baroness Anelay</i>	<i>February 2015</i>	<i>Shell Nigeria, to discuss# International Energy</i>
<i>Mark Simmonds</i>	<i>January 2014</i>	<i>Angola and Sub Saharan Africa</i>
<i>Mark Simmonds</i>	<i>May 2013</i>	<i>UK country Chairman Shell Nigeria</i>

For each of these meetings please provide the following information

- I. Time*
- II. Place*
- III. Attendee list*

(including name, where disclose---able under requirements of DPA, and job title of each attendee)

Please also provide any documentation in relation to any meetings, including:

- a. Any meeting minutes*
- b. Correspondence in relation to meetings*
- c. Meeting readouts*

d. Briefing notes
e. Other meeting memoranda”

I am writing to confirm that we have now completed the search for the information which you requested. I can confirm that at the time of the receipt of your request the Foreign and Commonwealth Office (FCO) holds information as follows:

Meeting	Date/Time	Place	Attendee List
1 Mr Swire	9 July 2015	FCO	Mr Swire, Andrew Brown (International Upstream Director, Shell), David Campbell (High Commissioner, Brunei), Nick McInnes (Consul-General, Sydney) and junior officials.
2 Baroness Anelay	19 February 2015	FCO	Baroness Anelay, Rob Connelly (Senior 0930 - 1000 Adviser, Europe & Sub-Saharan Africa, Shell), (Deputy Head, UK Government Relations, Shell), George Okunbor (Managing Director, Shell Petroleum Company of Nigeria), Mutiu Sunmonu (outgoing Managing Director, Shell Petroleum Company of Nigeria) and junior officials.
3 Mr Simmonds	21 January 2014	FCO	[We did not find an attendee list for this Meeting.]
4 Mr Simmonds	9 May 2013	FCO	Mr Simmonds, Ed Daniels (Shell UK Chairman) and, Shell's Deputy-Head of Government Relations and junior officials.

In answer to your second part of your request, I can confirm that the FCO does hold information relevant to your request. I am attaching the following documents:

Meeting	Documents/Description	Comment/Title
1 (Swire)	Briefing notes	1. "Meeting with Andrew Brown, International Upstream Director, Shell, Tuesday 7 July"
	Meeting readout	2. "20150709 Brunei and Australia: Meeting between Minister Swire and Andrew Brown, Upstream Director Shell"
2 (Anelay)	Correspondence	3. "FW: Update to Shell briefing"
	Briefing notes	4. "Meeting with Rob Donnelly, Senior Regional Adviser, Deputy Head of UK Government Relations at Shell, Thursday 19 February, 0930-1000 HRS: Baroness Anelay's FCO Office"
	Meeting readout	5. "Baroness Anelay Meeting with Shell, 19 February 2015 (0930-1000)"
	Correspondence	6. "FW: Briefing Request: Meeting with Shell Africa/Nigeria Country Chair"
3 (Simmonds)	Briefing	7. Meeting with Rob Donnelly, Shell Government Relations lead for sub-Saharan Africa (21 st January 2014)
4 (Simmonds)	Briefing notes	8. "Subject: meeting with Ed Daniels, Shell UK Chairman, 1230 9 May"
	Meeting readout	9. "Mr Simmonds Meeting with Shell, 9 May 2013"
	Other meeting memos	10. "FW: 20130509 Mr Simmonds Meeting with Shell"

As you requested we have considered this request under both the EIRs and the FOIA and we have applied them, as appropriate . We have reviewed all information with a presumption in favour of disclosure.

We are withholding some of the information in the attached documents because it falls under relevant exemptions under the applicable regime.

We have set out the exemptions applied below.

We have provided the information in its original form and marked which exemptions have been engaged next to the redactions.

Where this is not marked then either FOI Section 40 or / EIR 12(3) & 13(1) Personal Information apply, as relevant.

A further four documents were found in scope of this request but have been withheld in full. One is withheld under EIR 12(4)(e) internal communications and three are withheld under EIR 12(5)(e).

EIR 12(5)(a) - International relations, defence, national security or public safety

Regulation 12(5)(a) permits the withholding of information to the extent that its publication would adversely affect international relations, defence, national security or public safety.

FOIA Section 27(1)(a)(c) and (d) - International Relations

Section 27(1)(a)(c) and (d) of the FOIA provides that information is exempt if its disclosure would or would be likely to prejudice the relations between the UK and any other state, the interests of the UK abroad, or the promotion or protection by the UK of its interests abroad. EIR Regulation 12(5)(a) and Section 27(1)(a)(c) and (d) of the FOIA are qualified exemptions which require that the FCO considers carefully the balance of public interest in publishing the information.

The FCO considers 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. Factors in favour of disclosure include the strong public interest in

government transparency and accountability. Factors against disclosure include the strong public interest in ensuring that the FCO is able to conduct the UK's international relations effectively and protect UK interests abroad. To do this there must be good working relationships with other governments based on confidence and trust. This relationship of trust allows for the free and frank exchange of information on the understanding that it will be treated in confidence. If the UK does not maintain this trust and confidence, its ability to act as a significant player in the international arena, and protect and promote UK interests through international relations, will be hampered.

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. The FCO believes that publication of certain details would undermine the working relationships between the UK government and the Governments of Nigeria, Gabon, Mozambique, Brunei and Australia. Disclosure of information which was shared in confidence, and is not already in the public domain, would reduce the willingness of the other governments to engage with the UK and would weaken the ability of the FCO to operate in the UK's national interest. The FCO considers that in this instance this factor outweighs the public interest in releasing the information.

EIR 12(5)(e)- Confidentiality of commercial or industrial information

Regulation 12(5)(e) of the EIRs allows the withholding of information to the extent that its disclosure would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest. This is a qualified exemption which requires that the FCO consider the balance of public interest in publishing the information. The use of this exemption was carefully considered. The factors in favour of disclosure of this information, including the general public interest and greater transparency and accountability, were carefully weighed against the need to allow business-people and commercial organisations the space to conduct their lawful business competitively and without fear of disclosure of sensitive commercial information.

The FCO believes that publishing this information would support the general interest of improving public understanding of the issues around energy supply and the approach of government to wider energy security matters. There is also a general public interest in greater transparency in how Government operates and improving trust and engagement between citizens and government. However, this must be weighed against the public interest in protecting the ability of government to support UK commercial interests overseas.

Publication 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 in this instance this factor outweighs the public interest in releasing the information.

In particular, we have redacted text that would reveal market-sensitive information, or information of usefulness to competitors. That includes information relating to the company's future plans and information about the financial and business viability of the company. In this case we believe that the public interest in withholding some of the information outweighs the public interest in its release.

FOIA Section 43 – Commercial interests

Some of the information is exempt under Section 43 (2) of the FOIA, which relates to commercial interests. The use of this exemption was carefully considered. The factors in favour of disclosure of this information, including the general public interest and greater transparency and accountability, were carefully weighed against the need to allow business-people 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. Failure to protect such commercially sensitive information would limit the sources of information and interlocutors available to the FCO and limit the FCO's ability to promote the British economy and lobby for the interests of British businesses overseas. In this case after such consideration we believe that the public interest in withholding the redacted information outweighs the public interest in its release.

FOIA Section 41 – Information Provided in Confidence

Some of the information you requested is exempt under section 41 of the FOIA, as disclosure would be a breach of confidence. The successful working of British diplomacy depends upon sources being able to provide information in confidence without fear that this will be made public. Exemptions under Section 41 do not require the application of a public interest test.

FOI Section 40 / EIR 12(3) & 13(1) Personal Information

Finally, some of the information constitutes personal data and has been withheld. Section 40(2) and (3) of the FOIA and regulations 12(3) & 13 (1) of the EIRs provide an absolute exemption for personal data which is then dealt with 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 such circumstances regulation 12(3) of the EIRs applies. 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, regulation 12 confers an absolute exception on disclosure. There is, therefore, no public interest test to apply.

EIR Regulation 12(4)(e) Internal Communications & FOIA Section 35 Formulation of Government Policy

Regulation 12(4)(e) permits the withholding of information if its publication would involve the disclosure of internal communications. This is a qualified exception, which requires the FCO to consider carefully the balance of the public interest in publishing this information. Section 35(1)(a) and (b) of the Freedom of Information Act protects the formulation of policy and communications between Ministers. Disclosure would weaken Ministers' ability to discuss controversial and sensitive topics free from premature public scrutiny.

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 to policy is given. The candour of contributions to this process will be affected by officials' assessment of whether the content of such discussion will 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.

Publication

In keeping with the spirit and effect of the FOIA, all information is assumed to be releasable to the public unless it is exempt. The information we have supplied to you may now be

published on our website together with any related information that will provide a key to its wider context.

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Yours sincerely,

Africa Directorate



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