



Foreign &
Commonwealth
Office

Arms Export Policy Department
Foreign and Commonwealth Office
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27 January 2016

Dear

FREEDOM OF INFORMATION ACT 2000 – REQUEST REFERENCE 1041 - 15

Thank you for your email of 30 October 2015 asking for information under the Freedom of Information Act (FOIA) (2000). Your request asked:

Could you please send me any legal advice received, requests for legal advice, or internal memos and correspondence produced in 2015 relating to the content of the Dubrovnik Declaration and Dubrovnik Action Plan that were adopted at the First Review Conference of the Convention on Cluster Munitions in September 2015.

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 information relevant to your request. Please find attached a digest of information produced in 2015 relating to the content of the Dubrovnik Declaration and Dubrovnik Action Plan that were adopted at last September's First Review Conference of the Convention on Cluster Munitions.

Some of the information has been withheld using section 27 – international relations. Section 27 is a qualified exemption, so is subject to a public interest test. Section 27(1)(b) (c) and (d) and (2) of the FOIA recognise the need to protect information that would be likely to prejudice relations between the United Kingdom and other states if it was disclosed. The use of this exemption was carefully considered. We acknowledge the public interest in the Government's openness and transparency in relation to your request and that disclosure would also increase public knowledge about UK diplomacy at the First Review Conference of the Convention on Cluster Munitions. However, we also consider that the effective conduct of the UK's international relations depends upon maintaining trust and confidence with other governments and international organisations. To do this there must be good working relationships with other governments and international organisations. This relationship of trust allows for an open and unrestricted exchange of information on the understanding that it will be treated in confidence. The UK's ability to exert influence internationally, and to protect and promote UK interests through international relations, will

be reduced if the Government does not maintain this trust and confidence. If these positions are not maintained, it is highly likely that other governments and international organisations may be more reluctant to share information with the Government in future, and may be less likely to respect the confidentiality of information supplied to them by the UK Government, to the detriment of UK interests. We believe that the release of information related to your request regarding the UK's interaction with other States and international organisations would adversely impact these relationships, so withholding it from release better serves the public interest in this case.

Some of the information you have requested is exempt under Section 36 (2) (b) (i) and (ii) - prejudice to the effective conduct of public affairs. Again, the public interest test has been applied to consider carefully the use of this exemption. We acknowledge the public interest in the Government's openness and transparency regarding the subject of your request and recognise that disclosure would enhance public understanding of the Government's position on the content of the Dubrovnik Declaration and Action Plan. However, we must also consider the importance of allowing the free and frank provision of advice, and the free and frank exchange of views for the purposes of deliberation, so that Ministers and officials can consider policy free from the pressures of public political debate. For these reasons, it is the opinion of an FCO Minister that the balance of public interest lies in favour of withholding such information from release at this time.

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, Sections 40 (2) and (3) of the Act apply. In this case, our view is that disclosure would breach the first data protection principle, which states that personal data should be processed fairly and lawfully. Our view is that the fairness aspect of this principle would be breached by disclosure. In such circumstances, Section 40 of the Act confers an absolute exemption on disclosure. We do not, therefore, have to apply a public interest test.

And finally, some of the information is also exempt from disclosure under Section 42 (1) of the FOIA, which recognises the validity of withholding information that is subject to legal professional privilege (LPP). As before, the use of this exemption was considered carefully. The factors in favour of disclosure of this information, including the general public interest and greater transparency and accountability of government, were weighed carefully against the need to prevent any impact on the Government's ability to seek legal advice. LPP exists in order to encourage clients to be frank and open with their legal adviser. It is important that the Government is able to seek legal advice so that it can make decisions in the correct legal context. As the legal adviser must be in possession of all material facts in order to provide sound advice, the Government must feel confident that it can disclose such information to its legal adviser without fearing that this information will be disclosed to the public. In turn, the legal adviser will consider the circumstances and assess their relative merit in order to provide legal advice. We consider, therefore, that the public interest in withholding the information outweighs the public interest for its release.

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,

Arms Export Policy Department



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