



Foreign &
Commonwealth
Office

Africa Directorate

Foreign and Commonwealth Office
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07 August 2015

ENVIRONMENTAL INFORMATION REQUEST (EIR) REF: EIR 0011-15

Thank you for your email of 12 June 2015 to the British High Commission Pretoria asking for information under the Environmental Information Regulations 2004 (EIR). You asked:

'This is an Environmental Information Regulations request for correspondence and details of meetings between a number of coal companies/organisations and the High Commission. I am making this request because I believe that, at such a crucial stage in the UNFCCC process, there is a strong public interest in transparency regarding the relationship between major coal producers and users, their representatives and the UK government.'

1. *I am seeking information on correspondence between the High Commission and the following companies and organisations:*

- *Glencore*
- *Anglo American*
- *BHP Billiton*
- *Eskom*
- *Exxaro*

I would be grateful if you could use keywords in the terms listed above to search your records systems as part of your efforts to locate information. I am requesting correspondence generated in the period beginning September 2014 and continuing up to the present day, or as close as possible to it (i.e. the date this request or any subsequent appeal is processed).

Please ensure that your search for correspondence includes:

- *Email correspondence (including attachments)*
- *Transcripts*
- *Memos*
- *Reports*
- *Briefing documents or the equivalent*
- *Letters*
- *Telephone records and any notes made during and after telephone calls*

- *Correspondence includes any other type of correspondence frequently used by the department, including text messages and private emails*

2. *I am seeking details of meetings between High Commission officials and representatives of the following organisations from September 2014 and continuing up to the present day, or as close as possible to it (i.e. the date this request or any subsequent appeal is processed):*

- *Glencore*
- *Anglo American*
- *BHP Billiton*
- *Eskom*
- *Exxaro*

Please also provide information on meetings including:

- *Date*
- *Time*
- *Place*
- *Attendee list (including name (where discloseable under requirements of DPA) and job title of each attendee)*
- *Minutes'*

Search for information

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.

Information

The following is a digest of the information I am able to release referring to both correspondence with the companies and organizations listed and references to meetings with the same:

- I. On 10 September 2014 Andrew Henderson, Trade Commissioner to South Africa met with representatives of ESKOM to discuss the challenges faced by the company and explore options for increased engagement by UK companies. No record of the meeting is held.
- II. On 14 October 2014 Representatives of the British High Commission Pretoria met with representatives of Anglo American to discuss the Voluntary Principles on Security and Human Rights and a potential project the company might participate in. No record of the meeting is held and the proposed project did not go ahead.
- III. On 21 Nov 2014 Andrew Henderson, Trade Commissioner to South Africa met with representatives of BHP Billiton to discuss the company in general terms. No record of the meeting is held.
- IV. On 26 November 2014 Judith Macgregor, High Commissioner to South Africa and colleagues met with representatives of Anglo American plc visiting from the UK. No record of the meeting is held.

- V. On 10 December 2014 Judith Macgregor, High Commissioner to South Africa and colleagues met with representatives of ESKOM to discuss the challenges faced by the company and explore opportunities for increased UK engagement. We hold a record of this meeting but I consider it to be exempt from release under s.12(5)(e) and s 12(5)(a).
- VI. Between December 2014 and January 2015 a representative of the British High Commission was in email contact with a representative of Anglo American with regard to proposed Voluntary Principle on Security and Human Rights events to be held at the Cape Town Mining Indaba. A redacted copy of that email chain is attached to this reply.
- VII. On 5 February 2015 Andrew Henderson, Trade Commissioner to South Africa met with a representative of ESKOM at a reception at his Residence, they discussed the challenges faced by the company and options for increased engagement by UK companies. We hold a record of this meeting but I consider it to be exempt from release under s.12(5)(e) and s 12(5)(a).
- VIII. On 10 February 2015 Lord Livingstone, Trade Minister hosted an event on the Voluntary Principles on Security & Human Rights at the Cape Town International Convention Centre during the Cape Town Mining Indaba. A representative of Anglo American attended and also spoke at the event. We hold a record of this meeting but I consider it to be exempt from release under s.12(5)(e) and s 12(5)(a).
- IX. On 11 February 2015 DFID's South Africa Director, Mike Hammond hosted an event on the Voluntary Principles on Security & Human Rights during the Cape Town Mining Indaba. A representative of Anglo American also spoke at the event. No record of the event is held.
- X. In May 2015 a representative of the British High Commission in Pretoria sought a meeting with a representative of ESKOM, no meeting subsequently took place. A redacted copy of that email chain is attached to this reply
- XI. On 8 July 2015 the Deputy High Commissioner to South Africa, Peter Boxer, hosted a breakfast on Renewable Energy and the opportunities available to South Africa. Representatives from ESKOM were invited. A redacted copy of the email chain conveying the invitation is attached to this reply.

Use of exemptions

Some of the information reviewed has been withheld under sections 12 (4) (e), 12(5)(a), 12(5)(e) and 13 (1) of the Environmental Information Regulations 2004.

The Foreign and Commonwealth Office has a critical role to play in supporting HM Government's prosperity objectives overseas (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/35438/business-charter.pdf). One of the FCO's three priorities is to build Britain's prosperity by increasing trade and investment, opening markets, ensuring access to resources, and promoting sustainable global growth.

In order to deliver this prosperity priority FCO Ministers and staff talk directly with business and trade associations to brief them on developments in foreign policy, including issues relating to business and human rights, and to understand at first hand UK business needs and priorities.

Regulation 12(5)(e) allows the withholding of information if 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 exception which requires that the FCO consider the balance of public interest in publishing the information.

The FCO believes that publishing this information would support the general interest of improving public understanding the approach of government to wider energy matters and the support offered to UK companies. There is also a general public interest in greater transparency in how Government operates and improving trust and engagement between citizens and government, accordingly some information has been released to you. However, this also must be weighed against the overwhelming 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 this factor outweighs the public interest in releasing some of the information.

Regulation 12(5)(a): permits the withholding of information if its publication would adversely affect international relations, defence, national security or public safety. This is a qualified exception which requires that the FCO consider carefully the balance of public interest in publishing 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 and section 12(5)(a), 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 South Africa. We believe that publication of certain details would undermine the working relationship between the UK government and South Africa. Further, 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. We consider that these factors outweigh the public interest in releasing the information.

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. 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 would be likely to be affected by officials' assessment of whether the content of such discussion 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.

Regulation 13 (1) : 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 13(1) 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 13 confers an absolute exception on disclosure. There is, therefore, no public interest test to apply.

Once an EIR 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,

Desk Officer
Africa Directorate



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