



Foreign &  
Commonwealth  
Office

**Legal Directorate**  
Foreign and Commonwealth Office  
King Charles Street  
London SW1A 2AH

Website: <https://www.gov.uk>

26 May 2015

### **Environmental Information Request (EIR): Ref No 003-15**

Thank you for your email of 25 April 2015 to [redacted] asking for information that falls to be considered under the Environmental Information Regulations 2004 (EIR) and under the Freedom of Information Act 2000 (FOIA). You asked for the following information:

*"I see that the UK presented two DVDs (Chagos Science in Action I & II) to the ITLOS Tribunal. Since they are not available through the PCA website please could I ask for a copy.....*

*As part of the request please could you also supply any information you have as to how these DVDs became incorporated into the UK case, e.g., was it a request by FCO/TSol/Biota to [redacted]/CCT/[redacted]/[redacted] etc? Or was it something that was suggested by CCT/[redacted]/an other. So essentially any e-mails/correspondence covering this."*

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) does hold information that falls within this request.

We have treated the request for the films "Chagos Science in Action I & II" as requests under the EIR. We are releasing this information to you, together with the Bertarelli film "Fragments of Paradise" which was also served with the United Kingdom's counter-memorial in July 2014 as part of the Mauritius v United Kingdom arbitration proceedings. Please find below the links to this information.

<https://vimeo.com/71374932> Science in Action Part I

<https://vimeo.com/72064338> Science in Action Part II

<https://vimeo.com/84571591> Bertarelli film "fragments of paradise"

The information supplied to you continues to be protected by copyright. You are free to use it for your own purposes, including for private study and non-commercial research, and for any other purpose authorised by an exception in current copyright law. Documents (except photographs) can be also used in the UK without requiring permission for the purposes of news reporting. Any other re-use, for example commercial publication, would require the permission of the copyright holder.

In relation to the other part of your request, which was for correspondence covering how these films became incorporated into the UK case, we are treating this as an FOI request. I can confirm that the FCO does hold information falling within the terms of this request. We are withholding this information under section 42(1) of FOIA, legal professional privilege (LPP).

Section 42(1) of the Act recognises the validity of withholding information that is subject to Legal Professional Privilege (LPP), which 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 its decisions in the correct legal context. The legal adviser must be in possession of all material facts in order to provide sound advice. The government must, therefore, feel confident that it can disclose *all* relevant facts to its legal adviser. It should be able to do so without fearing that this information will be disclosed to the public. In turn the legal adviser will consider the issues and the arguments and weigh up their relative merit.

Transparency of decision making and knowing that decisions are taken in the correct legal context are two reasons why it might be argued that information subject to section 42(1) should be disclosed. However, the process of providing legal advice relies for its effectiveness on each side being open and candid with the other. Such candour is ensured by the operation of LPP. The importance of this principle was debated and reinforced in the House of Lords in *Three Rivers District Council and BCCI v The Governor and Company of the Bank of England* [2004] UKHL 48. For these reasons, I consider that the public interest in maintaining LPP under section 42(1) outweighs the arguments in favour of disclosure.

Yours sincerely,

Legal Directorate

