



Foreign &
Commonwealth
Office

Pacific Department
Foreign and Commonwealth Office
King Charles Street
London SW1A 2AH

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

12 August 2015

FREEDOM OF INFORMATION ACT 2000 REQUEST REF: 0574-15

Thank you for your email of 16 June asking for information under the Freedom of Information Act (FOIA) 2000. You asked:

“With reference to this meeting between Hugo Swire and Rio Tinto, <https://twitter.com/HugoSwire/status/610480704695201792>, I'd like to request copies of preparatory papers sent by the Foreign Office Mongolia Department to Hugo Swire ahead of the meeting together with a record of what was actually discussed during the meeting.”

I am writing to confirm that we have now completed the search for the information which you requested and can confirm that the Foreign and Commonwealth Office (FCO) does hold information relevant to your request.

Please find attached the information that the FCO can release to you. Some of the information has been withheld using sections 27, 36, 38, 40 and 43 of the Freedom of Information Act.

Section 27

Section 27(1) (c) is a qualified exemption related to international relations and as such we have considered where the greater public interest lies. Disclosure could meet the public interest in transparency and accountability; however it may interfere with UK relations with Mongolia. The effective conduct of international relations depends upon maintaining trust and confidence between governments. If the UK does not maintain this trust and confidence, and releases thoughts of an official on our relationship with another state, the bilateral relationship and UK interests in Mongolia could potentially be damaged and the UK's ability to protect and promote its interests will be hampered, which will not be in the public interest. For these reasons we consider that the public interest in maintaining this exemption outweighs the public interest in disclosure.

Section 36

Some of the information you have requested is exempt under section 36 (2) (b) (prejudice to the effective conduct of public affairs) of the Act. It is the opinion of an FCO Minister that the 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. This exemption requires the application of a public interest test. 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.

Section 38

Other information is likely to endanger the safety of individuals and has therefore been withheld under Section 38(1) (b). In applying the public interest test we took into consideration the factors in favour of disclosure; in this case that releasing such information would demonstrate openness and public accountability. However, release of this information could seriously endanger the health and safety of a specific individual. For this reason we therefore judge that the public interest in withholding this information outweighs the public interest in disclosure.

Section 40

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 Freedom of Information Act apply. 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.

Section 43

Some of the information is exempt under Section 43 (2) of the Act, 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 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 in that companies and individuals would, if this information were disclosed, be much less likely to provide the FCO with commercially sensitive information. This would limit the sources of information and interlocutors available to the FCO. In doing so, it would seriously impair our ability to work for UK interests in a safe, just and prosperous world. In this case after such consideration we believe that the public interest in withholding the redacted information outweighs the public interest in its release.

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Yours sincerely,

Pacific Department



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