



# Foreign & Commonwealth Office

## Iraq Team

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## FREEDOM OF INFORMATION ACT 2000 REQUEST REF: 0632-16

Thank you for your request for information under the Freedom of Information Act (FOIA) 2000 which we received on 29 June 2016. You asked:

*a copy of the documentary verification of the assertion that “in March 2015 the Government of Iraq, as the sovereign authority in Iraq, informed HMG that it required licences for commercial sales of military controlled goods to the KRG to be subject to approval by the Government of Iraq in Baghdad” together with copies of minutes, notes, internal memoranda, e-mail or other forms of communication or record generated by any person within the FCO contributing to the consideration and/or compliance with the assertion, that directly or indirectly sought to ensure the change in ECO precedent and policy in this established practice*

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.

Please find attached the information that the FCO can release to you.

On 8 July 2015, the Government of Iraq reconfirmed – in a discussion with UK Government officials - the policy set out in the following Written Ministerial Statement to Parliament from the former Parliamentary Under-Secretary of State for Foreign and Commonwealth Affairs, Alistair Burt. The statement is from 11 November 2010 and remains the UK’s Export Licensing Policy for Iraq:

*“The arms embargo in Iraq continues under United Nations Security Council resolution 1546 with exemptions for supplies of arms and related matériel required by the Government of Iraq (GoI) or the multinational force (MNF) to serve the purposes of the resolution.*

*Following a thorough review of its procedures for processing export licence applications to Iraq, Her Majesty's Government will consider as exempt from the embargo exports to the GoI, the United Nations Assistance Mission in Iraq, diplomatic missions in Iraq, the US forces in Iraq, the NATO training mission in Iraq, the UK naval training mission training the Iraqi Navy and entities contracted or subcontracted to the GoI, US or UK forces or NATO. Export licence applications to these end users will not therefore require the approval of the GoI prior to approval of the application but may require extra information to be provided by the entity seeking the export licence. For exports serving the purposes of UNSCR 1546 to entities other than these, the exporter is required to provide a supporting document from the GoI to demonstrate that the proposed export is required and thus exempt from the embargo. All export licence applications for Iraq as elsewhere will be assessed on a case-by-case basis against the Consolidated EU and National Arms Export Licensing Criteria and will not issue a licence where to do so would be inconsistent with the criteria."*

Some information has been withheld under section 27. Section 27(1)(a) of the FOIA recognises the need to protect information that would be likely to prejudice relations between the United Kingdom and other states if it was disclosed.

The application of s.27(1)(a) requires us to consider the public interest test arguments in favour of releasing and withholding the information. We acknowledge that releasing information on this issue would increase public knowledge about our relations with Iraq. However, s.27 (1) (a) recognises that the effective conduct of international relations depends upon maintaining trust and confidence between governments. If the United Kingdom does not maintain this trust and confidence, its ability to protect and promote UK interests through international relations will be hampered, which will not be in the public interest. The disclosure of information detailing our relationship with the Iraqi Government could potentially damage the bilateral relationship between the UK and Iraq. This would reduce the UK government's ability to protect and promote UK interests through its relations with Iraq, which would not be in the public interest. For these reasons we consider that, the public interest in maintaining this exemption outweighs the public interest in disclosing it.

Some information has been withheld under section 35. The FCO considers that there is a general public interest in greater transparency in the decision-making process in order to ensure government is accountable to the public.

However, with regards to section 35, for the effective formulation of government policy, the Government requires a clear space, immune from public view, in which it can debate matters internally free from the pressures of public political debate. This information is withheld due to the need for officials to be able to conduct rigorous and candid risk assessment of their policies and programmes, including their pros and cons, without there being premature disclosure which could close off alternative options and inhibit the free and frank discussion of all policy options. This would have a negative impact on the quality of decision making, which is clearly not in the public interest. We have judged that in this case, the public interest in maintaining this exemption outweighs the public interest in disclosure.

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 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.

Some of the withheld information is personal data relating to third parties. It is our view that disclosure of this information would breach the first data protection principle, which states that personal data should be processed fairly and lawfully. Section 40(2) and (3) of the FOIA therefore apply. It is the fairness aspect of this principle which we think would be breached by disclosure in this case. In such circumstances section 40 confers an absolute exemption on disclosure. We do not therefore have to apply the public interest test.

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Yours sincerely,

Iraq Team

