

Reference: 2024-002

Thank you for your email in which you requested the following information under the Freedom of Information Act 2000 (FOIA):

All of the documents that you hold that have the words "British American Tobacco" in them. The timeline is from 16th January 2021 until today. That's starting after this announcement was made until today:

<https://www.sfo.gov.uk/2021/01/15/sfo-closes-british-american-tobacco-bat-plc-investigation/>

If you are not able to send the documents because this would exceed the cost limit, then kindly send me a list of all the documents. I'm sure you're able to make a search with the words "British American Tobacco" in your system and print the list of documents.

Response

The SFO holds this information. However, it is exempt from release under Section 30(1)(b) of the FOIA.

Section 30 (1) provides that:

(1) Information held by a public authority is exempt information if it has at any time been held by the authority for the purposes of—

(a) any investigation which the public authority has a duty to conduct with a view to it being ascertained—

(i) whether a person should be charged with an offence, or

(ii) whether a person charged with an offence is guilty of it,

(b) any investigation which is conducted by the authority and in the circumstances may lead to a decision by the authority to institute criminal proceedings which the authority has power to conduct, or (c) any criminal proceedings which the authority has power to conduct.

How the exemptions are engaged

Section 30(1) exempts any information held by a public authority if it has at any time been held by the authority for the purposes of (b) any investigation which is conducted by the authority, and in the circumstances may lead to a decision by the authority to institute criminal proceedings which the authority has power to conduct.

Public interest test

Section 30(1) is a qualified exemption and requires consideration of whether, in all the circumstances of the case, the public interest in exempting the information outweighs the public interest in disclosing it.

It is recognised that there is a general public interest in publicising the work of the SFO, so that the public knows that serious fraud, bribery, and corruption are being investigated and prosecuted effectively. The SFO takes steps to meet this interest by publishing casework information on its website where appropriate. The information we can provide on the British American Tobacco investigation can be found on our website here [British American Tobacco - Serious Fraud Office \(sfo.gov.uk\)](https://www.sfo.gov.uk). However, it is also recognised that it is in the public interest to safeguard the investigatory process and that investigating bodies should be afforded the space to determine the course of any investigation. To release the information you have requested would, for the reasons outlined, be likely to prejudice the SFO's conduct of any criminal investigation and ability to tackle and prevent serious crime. This would not be in the public interest as the right of access to information should not undermine the investigation and prosecution of criminal matters.

Having considered the opposing arguments, it is clear that the benefits of releasing this information are outweighed by the disbenefits and thus the public interest favours maintaining the exemption of this information.