



# Foreign & Commonwealth Office

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

Email: [foi-dpa.imd@fco.gov.uk](mailto:foi-dpa.imd@fco.gov.uk)  
Website: [www.fco.gov.uk/foi](http://www.fco.gov.uk/foi)

Natacha Cingotti

By email: [ask+request-425-77006ba9@asktheeu.org](mailto:ask+request-425-77006ba9@asktheeu.org)

12 August 2013

Dear Natacha Cingotti,

## **Freedom of Information (FOI) Request Ref: 0361-13**

Thank you for your email of 23 April asking for documents that the Foreign and Commonwealth Office (FCO) and the UK Permanent Representation to the EU holds in relation to contacts between members of the Permanent Representation of the UK to the EU and oil companies in relation to MIFID (the Proposal for a Directive of the European Parliament and of the Council on markets in financial instruments repealing Directive 2004/39/EC of the European Parliament and of the Council) since 1 January 2012.

I am writing to confirm that we have now completed the search for the information which you requested. I can confirm that the UK Representation in Brussels holds information relevant to your request.

We have now reached a decision on where the balance of public interest lies on some information and can now release this information to you.

Some of the information within the scope of your request is being withheld under section 27(1)(a) and (b) (international relations) and section 40 (personal information) of the Freedom of Information Act.

Section 27(1)(a) and section 27(1)(b) 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. In this case, the release of information could harm our relations with Member States of the European Union and with the EU Institutions.

The application of s.27(1)(a) and s.27(1)(b) 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 the EU Institutions and certain Member States. But s.27(1)(a) and s.27(1)(b) recognise that the effective conduct of international relations depends upon maintaining trust and

confidence between governments and international organisations. 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 EU Member States and EU Institutions could potentially damage the bilateral relationship between the UK and the Member States and EU Institutions. This would reduce the UK government's ability to protect and promote UK interests through its relations with said parties, 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 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.

The FOI Act obliges us to respond to requests promptly, and in any case no later than 20 working days after receiving your request. However, when a qualified exemption applies to the information and the public interest test is engaged, the Act allows the time for response to be longer than 20 working days, and a full response must be provided within such time as is reasonable in all circumstances of the case. We do, of course, aim to make all decisions within 20 working days, including in cases where we need to consider where the public interest lies in respect of a request for exempt information.

We are still considering further information under Section 27 and we estimate that it will take an additional 20 days to take a decision on where the balance of public interest lies, therefore we plan to have a response by 12 September 2013. If it appears that it will take longer than this to reach a conclusion, we will keep you informed.

I hope you are satisfied with this reply. However, if you wish to make a complaint or if you would like a review of our decision, please write to the FOI and DPA Team, King Charles Street, Room K4.10-13, London, SW1A 2AH. E-mail: [foi-dpa.imd@fco.gov.uk](mailto:foi-dpa.imd@fco.gov.uk). You have 40 working days to do so from the date of this letter.

If you are not content with the outcome of your complaint, you may then apply directly to the Information Commissioner for a decision. Generally, the Information Commissioner cannot make a decision unless you have exhausted the complaints procedure provided by the FCO. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

You can also find out more about previous FOI replies published on our website at [Publications - Inside Government - GOV.UK](#).

Yours sincerely,

*Benjamin Norman*

Benjamin Norman  
EU Institutions Team  
Europe Directorate



We keep and use information in line with the Data Protection Act 1998. We may release this personal information to other UK government departments and public authorities.