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National Arrangements for Public Access to Government-held Information

1. Sub-Committee 5 of the Letter of Intent (LoI) organisation has previously conducted an exercise to determine good and bad practice which affects the international exchange of information. Feedback has been gathered from both Government and Industry representatives via responses to a questionnaire.
2. One of the issues which was raised by Industry as a disincentive to the release of information was their lack of understanding as to what national laws and regulations applied to release of information to the public in each LoI nation.
3. In response to this issue, the member nations have now produced this document to summarise the position with regard to the release of information in each nation. The document is being released to Industry to assist them in understanding the different national regimes that may apply to the information they provide to international programmes.
4. It should be noted that this document represents only a broad review of national regulations and it should be used for information purposes only. National laws and regulations are subject to change and whilst it is intended that this summary will be updated periodically, if detailed current information on national regulations is required, Industry are advised to seek professional legal advice in the appropriate country.
4. The summary comprises answers from each member nation to a number of standard questions relating to the release of information. The answers are set out on the following pages:
 - Germany: Pages 3-5;
 - Spain: Pages 6-8 (and Annex A);
 - France: Pages 9-14;
 - Italy: Pages 15-17;
 - UK: Pages 18-24 (and Annex B);
 - Sweden: Pages 25-29.

Responses From Germany

<u>Question</u>	<u>Answer</u>
<p>1. (a) Are there specific arrangements within your nation for information held by the Government to be released to members of the public e.g. under a Freedom of Information Act? (b) If so, specify those arrangements.</p>	<p>1. a) Yes. b.) Federal government. Informationsfreiheitsgesetz vom 5. September 2005</p>
<p>2. If there are specific arrangements for the release of information, who may apply for that release? (For example are there nationality or residence requirements?)</p>	<p>2. Any person has the right to claim the release of official information. The right applies to Germans & foreigners living both in Germany and abroad (§ 1, Abs. 1)</p>
<p>3(a) If there are specific arrangements for the release of information, is there a time limit within which the Government must respond to these requests? (b) If so, what is that time limit?</p>	<p>3. a) Yes b) 1 month (§ 7, Abs. 5).</p>
<p>4(a) If there is a requirement for information to be released under '1' above, are there exemptions to the requirement? (b) What are they?</p>	<p>4. a) Yes. b) Exemptions to protect public interests (§ 3), to protect public decision-making (§ 4), personal data, intellectual property and trade & business secrets.</p>
<p>5(a) Referring to '4' above, do the exemptions cover information which has been provided to your Government by a foreign Government? (b) If not, how do you protect information provided by foreign Governments from release? (c) Is the answer to '(b)' affected by whether or not the information provided by the foreign Government is owned by that Government's contractor? (d) If the exemptions do cover information which has been provided by a foreign Government, are there specific actions which you</p>	<p>5. a) Yes, if they are classified to protect public interests. b) ./. c) No, IPR, trade & business secrets are protected (§6). d) ./.</p>

<p>and/or the foreign Government should take in order to prevent the release?</p>	
<p>6(a) Referring to '4' above, do the exemptions cover information which has been provided to your Government by a contractor? (b) If not, how do you protect a contractor's information from release? (c) If the exemptions do cover information provided by a contractor, are there specific actions which you and/or the contractor should take in order to prevent the release?</p>	<p>6. a) In principle only if they are made available as confidential (§ 3 Nr. 7) otherwise see 4 c) b) ./. c) ./.</p>
<p>7(a) Where the information requested belongs to a third party, is there a process in place to consult that third party prior to the release of the information? (b) If so, what is that process?</p>	<p>7. a) Yes, (§ 8). b) The authority gives a third party, whose interests are affected by the release, the opportunity to give a written statement within 1 month, if he can show an interest worth protecting to exclude the release; & the possibility of legal remedies.</p>
<p>8(a) Do you use standard or special contract conditions to address the possibility that information provided by a contractor may be subject to a request for release? (b) If so, specify how those conditions deal with the matter.</p>	<p>8. a) No. b) /.</p>
<p>9(a) If there are arrangements for the release of information, how is that information released? (For example is it simply provided to the person who made the request, or is it more widely published e.g. via a website?)</p>	<p>9. As a rule only on application (§ 7)</p>
<p>10. If information is released, what conditions are placed on the use of that information? (For example are there copyright restrictions on copying or publication?)</p>	<p>10. None.</p>

<p>11. Is there a central body within your nation that is responsible for providing advice on the release of government information to the public?</p>	<p>11. Yes, federal commissioner for data protection (§ 12).</p>
<p>12. If there is a central body responsible for public access to information, how may this body be contacted?</p>	<p>12. Any person may contact the federal representative for freedom of information if he thinks his rights in information are affected (by writing, telephone or personal).</p>
<p>13. If you do not have specific arrangements as noted in Question '1' above regarding release of information to the public, what is your Government's general policy on making information available to the public – is it a general policy of release unless the information falls within an excepted category or a general policy of confining Government-held information within Government?</p>	<p>13. ./.</p>
<p>14. If your response to '13' above indicates that you have a general policy of releasing information, please provide answers to questions '2' to '12' above in the light of this policy to indicate how the issues in those questions are addressed within the policy.</p>	<p>14. ./.</p>
<p>15. Is there a website in your nation that provides information on national rules, regulations or procedures that apply to the release of information?</p> <p>If so, please provide details.</p>	<p>15. www.bmj.bund.de with further links</p>

Responses From Spain

<u>Question</u>	<u>Answer</u>
<p>1. (a) Are there specific arrangements within your nation for information held by the Government to be released to members of the public e.g. under a Freedom of Information Act? (b) If so, specify those arrangements.</p>	<p>(a) Yes. -Specific agreements with the Ministry of Industry-Energy, Science and Technology. -Specific agreements with Ministry of Internal Affairs.</p> <p>(b) Law 30/92, of November the 26th, Public Administrations Legal Regime and Common Administrative Procedures</p>
<p>2. If there are specific arrangements for the release of information, who may apply for that release? (For example are there nationality or residence requirements?)</p>	<p>You can only apply at the level of agreement of the Council of Ministers.</p>
<p>3(a) If there are specific arrangements for the release of information, is there a time limit within which the Government must respond to these requests? (b) If so, what is that time limit?</p>	<p>Normally, there is no statutory deadline established, it will depend on each case of domestic processing.</p>
<p>4(a) If there is a requirement for information to be released under '1' above, are there exemptions to the requirement? (b) What are they?</p>	<p>(a) Yes.</p> <p>(b) The exceptions are regulated in the "OFFICIAL SECRETS LAW" according to the degree of confidentiality agreement.</p>
<p>5(a) Referring to '4' above, do the exemptions cover information which has been provided to your Government by a foreign Government? (b) If not, how do you protect information provided by foreign Governments from release? (c) Is the answer to '(b)' affected by whether or not the information provided by the foreign Government is owned by that Government's contractor? (d) If the exemptions do cover information which has been</p>	<p>(a) Art. 2 of the "OFFICIAL SECRETS LAW":- "For the purposes of this Act may be declared classified matters, acts, records, information, data and objects whose knowledge by an unauthorized person may harm or endanger State security and defence".</p> <p>(b) Not applicable</p> <p>(c) Not Applicable</p>

<p>provided by a foreign Government, are there specific actions which you and/or the foreign Government should take in order to prevent the release?</p>	<p>(d) Yes, the foreign government should take the above specific actions in order to prevent the release.</p>
<p>6(a) Referring to '4' above, do the exemptions cover information which has been provided to your Government by a contractor? (b) If not, how do you protect a contractor's information from release? (c) If the exemptions do cover information provided by a contractor, are there specific actions which you and/or the contractor should take in order to prevent the release?</p>	<p>(a) Yes, according to the confidentiality agreements, in each different contract.</p> <p>(b) Not Applicable</p> <p>(c) It is performed through a confidentiality provision signed by both parties which includes a four- year period for which the parties are bound to observe secrecy (please see the Confidentiality Clause in Annex A.)</p>
<p>7(a) Where the information requested belongs to a third party, is there a process in place to consult that third party prior to the release of the information? (b) If so, what is that process?</p>	<p>(a) Yes, we introduce a specific provision in the Release Agreement between the owner of the information and the receiver of the information.</p>
<p>8(a) Do you use standard or special contract conditions to address the possibility that information provided by a contractor may be subject to a request for release? (b) If so, specify how those conditions deal with the matter.</p>	<p>(a) Yes.</p> <p>(b) In relation to the subject of the contract</p>
<p>9(a) If there are arrangements for the release of information, how is that information released? (For example is it simply provided to the person who made the request, or is it more widely published e.g. via a website?)</p>	<p>(a) The information released is limited to participants in the competitive bidding procedure.</p>
<p>10. If information is released, what conditions are placed on the use of that information? (For example are there copyright restrictions on</p>	<p>The conditions on the use of that information are expressly not to use Confidential Information</p>

copying or publication?)	obtained from the owner of that information to any other purpose than performing the contract.
11. Is there a central body within your nation that is responsible for providing advice on the release of government information to the public?	The Ministry of Industry.
12. If there is a central body responsible for public access to information, how may this body be contacted?	Through consultation between Public Bodies.
13. If you do not have specific arrangements as noted in Question '1' above regarding release of information to the public, what is your Government's general policy on making information available to the public – is it a general policy of release unless the information falls within an excepted category or a general policy of confining Government-held information within Government?	There is a general guideline that is linked to all contracts for R&T and is consistent with Rule 25 of the Law on Public Sector Contracts in which provides for freedom of covenants if they are not contrary to public interest to the legal framework and the principles of good management.
14. If your response to '13' above indicates that you have a general policy of releasing information, please provide answers to questions '2' to '12' above in the light of this policy to indicate how the issues in those questions are addressed within the policy.	Not Applicable

Responses From France

<u>Question</u>	<u>Answer</u>
<p>1. (a) Are there specific arrangements within your nation for information held by the Government to be released to members of the public e.g. under a Freedom of Information Act? (b) If so, specify those arrangements.</p>	<p>(a) Yes.</p> <p>(b) The specific arrangements in FRANCE are:</p> <ul style="list-style-type: none"> - the 78-753 French Law (CADA Law) of 17th July 1978, <i>CADA is the abbreviation for Administrative Document Access Commission</i> - The French Ordinance of 6th June 2005 which transposed the EC Directive n° 2003/98/EC of 17th November 2003 and modified the CADA Law. - Patrimony Code. The article L213-2 defines delays for the disclosure of information (for example: 50 years from the date of the document where defence or foreign policy are at stake).
<p>2. If there are specific arrangements for the release of information, who may apply for that release? (For example are there nationality or residence requirements?)</p>	<p>“Any person” may make a request for information under the CADA Law (article 1). There are no residency or nationality requirements.</p>
<p>3(a) If there are specific arrangements for the release of information, is there a time limit within which the Government must respond to these requests? (b) If so, what is that time limit?</p>	<p>No specific time limit in the 1978 law, but 2 months from the date of the request in Patrimony Code (article L213-3).</p>
<p>4(a) If there is a requirement for information to be released under ‘1’ above, are there exemptions to the requirement? (b) What are they?</p>	<p>(a) Yes. A number of exemptions from disclosure are provided by the CADA Law (CADA law, article 6).</p> <p>The disclosure is only possible for final documents. And if the document was not be disclosed before to the public.</p>

	<p>These are split into “Absolute” exemptions (CADA law, article 6 - I) and “Qualified” exemptions (CADA law, article 6 - II).</p> <p>The “Absolute” exemptions refer to public interest (defence, security, tax, secrets protected by laws). The “Qualified” exemptions refer to secrets related to people or companies.</p> <p>Where an Absolute exemption applies the information can simply be withheld without the need to consider any other factors.</p> <p>Where a Qualified exemption applies a public authority may only withhold information if the public interest in withholding the information outweighs the rights of any person.</p> <p>The requested document that includes the absolute exemption or the qualified exemption may be disclosed if the said secrets are concealed (deleted) where possible (CADA law, article 6 III).</p> <p>(b) The following exemptions are the most relevant for the business of defence procurement:</p> <p><u>Absolute Exemptions:</u></p> <ul style="list-style-type: none"> - Information supplied by, or relating to, bodies dealing with security matters - Information which must be withheld in order to safeguard national security - Information which, if disclosed, would prejudice Defence or the capability, effectiveness or security of relevant forces <p><u>Qualified Exemptions:</u></p> <ul style="list-style-type: none"> - Information which relates to personal privacy or which, if
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	<p>released, would prejudice the private life of any person</p> <ul style="list-style-type: none"> - Information which is a trade secret or which, if released, would prejudice the commercial interests of any person - Information which is a professional secret. - Information which is covered by an intellectual property right, especially an author's right. (article 10)
<p>5(a) Referring to '4' above, do the exemptions cover information which has been provided to your Government by a foreign Government?</p> <p>(b) If not, how do you protect information provided by foreign Governments from release?</p> <p>(c) Is the answer to '(b)' affected by whether or not the information provided by the foreign Government is owned by that Government's contractor?</p> <p>(d) If the exemptions do cover information which has been provided by a foreign Government, are there specific actions which you and/or the foreign Government should take in order to prevent the release?</p>	<p>(a) Yes. Information provided by a foreign government could be protected from disclosure if information falls into one the categories in Article 6 (for example: National Security, Defence, Secrecy, confidentiality, foreign policy).</p> <p>(b) Not Applicable</p> <p>(c) Not Applicable</p> <p>(d) Although it is not necessary in order for the exemptions to apply, it is good practice to ensure that all documents are marked with information identifying the owner of the information, any security classification, and whether the document is considered confidential (for example : label RESTRICTED). Mutual information about the request for release is another good practice.</p>
<p>6(a) Referring to '4' above, do the exemptions cover information which has been provided to your Government by a contractor?</p> <p>(b) If not, how do you protect a contractor's information from release?</p> <p>(c) If the exemptions do cover information provided by a contractor, are there specific actions which you and/or the contractor should take in order to prevent the release?</p>	<p>(a) Yes. Information provided by a contractor could be protected by Article 6 (manufacturing secret, trade secrets and commercial information...). Again the information may also be subject to further exemptions (for example, National Security or Defence).</p> <p>(b) Not Applicable</p> <p>(c) Although it is not necessary in order for the exemptions to apply, it is good practice to ensure that all documents are marked with</p>

	information identifying the owner of the information, any security classification, and whether the document is considered confidential.
7(a) Where the information requested belongs to a third party, is there a process in place to consult that third party prior to the release of the information? (b) If so, what is that process?	(a) Yes. (b) Where the information that is requested is identified as belonging to a third party, French MOD will consult that third party as necessary to determine whether an exemption should apply.
8(a) Do you use standard or special contract conditions to address the possibility that information provided by a contractor may be subject to a request for release? (b) If so, specify how those conditions deal with the matter.	(a) No. (nothing specific about this in the standard or special contract conditions – CCAG et CAC/PI) (b) Not applicable
9(a) If there are arrangements for the release of information, how is that information released? (For example is it simply provided to the person who made the request, or is it more widely published e.g. via a website?)	Article 4 of CADA law specifies how the information is released. The information is provided to the person who made the request. That person can choose between one of the three options.
10. If information is released, what conditions are placed on the use of that information? (For example are there copyright restrictions on copying or publication?)	Information is provided for the personal use of the person who requested it. Chapter II of CADA law provides for principles for the use of public information. It should be noted that information in which a third party has rights is not considered as public information. Where the information is subject to author's right (moral right and copyright), that author's right continues to apply. No permission is given for the copying or publication of the information. The authorisation

	of the owner of the right is requested.
11. Is there a central body within your nation that is responsible for providing advice on the release of government information to the public?	<p>Requests for information should be directed at the Public Authority that holds the information and they will decide whether to release or withhold the information in accordance with the relevant law and regulations.</p> <p>However the French Government has set up CADA in order to deal with access to public information. The CADA therefore offers guidance and advice to members of the public on the law and procedures that govern public access to information.</p> <p>Where a Public Authority refuses to release information it is possible for the person who requested the information to complain to the CADA, who will then issue advice on whether the information should be released. An annual report by CADA summarizes these cases.</p> <p>An individual or a Public Authority can appeal against a decision of the CADA by applying to the French Administrative Court of Justice.</p>
12. If there is a central body responsible for public access to information, how may this body be contacted?	<p>Yes, the CADA http://www.cada.fr</p>
13. If you do not have specific arrangements as noted in Question '1' above regarding release of information to the public, what is your Government's general policy on making information available to the public – is it a general policy of release unless the information falls within an excepted category or a general policy of confining Government-held information	<p>France does have specific arrangements for the release of information (see answers to questions 1-10). These arrangements work on the basis that all information should be made available unless a specific exemption applies.</p>

within Government?	
14. If your response to '11' above indicates that you have a general policy of releasing information, please provide answers to questions '2' to '10' above in the light of this policy to indicate how the issues in those questions are addressed within the policy.	Not Applicable
15. Is there a website in your nation that provides information on national rules, regulations or procedures that apply to the release of information? If so, please provide details.	http://www.cada.fr

Responses From Italy

<u>Question</u>	<u>Answer</u>
<p>1. (a) Are there specific arrangements within your nation for information held by the Government to be released to members of the public e.g. under a Freedom of Information Act? (b) If so, specify those arrangements.</p>	<p><i>(a) YES in Italy there is a specific law in order to gain citizen's access to public documents. (b) It is the national law n° 241 of 1990 (and following modifications).</i></p>
<p>2. If there are specific arrangements for the release of information, who may apply for that release? (For example are there nationality or residence requirements?)</p>	<p>The release is only for Italian citizens.</p>
<p>3(a) If there are specific arrangements for the release of information, is there a time limit within which the Government must respond to these requests? (b) If so, what is that time limit?</p>	<p>(a) Yes. (b) As soon as possible and as a maximum 30 days from the request.</p>
<p>4(a) If there is a requirement for information to be released under '1' above, are there exemptions to the requirement? (b) What are they?</p>	<p>(a) Yes (b) – <i>Security of the State, relationship with other States, the State's financial policy, monetary policy and exchange policy, Government activities concerning inspection, control, the interests of preventing crime and taking legal measures against crime, the economical interest of the community, the protection of the individual private and economical conditions,</i></p>
<p>5(a) Referring to '4' above, do the exemptions cover information which has been provided to your Government by a foreign Government? (b) If not, how do you protect information provided by foreign Governments from release? (c) Is the answer to '(b)' affected by whether or not the information provided by the foreign Government is owned by that Government's</p>	<p>(a) Yes if it is covered by an international agreement with that Government. (b) N/A (c) N/A (d) NO.</p>

<p>contractor? (d) If the exemptions do cover information which has been provided by a foreign Government, are there specific actions which you and/or the foreign Government should take in order to prevent the release?</p>	
<p>6(a) Referring to '4' above, do the exemptions cover information which has been provided to your Government by a contractor? (b) If not, how do you protect a contractor's information from release? (c) If the exemptions do cover information provided by a contractor, are there specific actions which you and/or the contractor should take in order to prevent the release?</p>	<p>(a) Yes because the exemptions cover all the information. (b) N/A (c) NO</p>
<p>7(a) Where the information requested belongs to a third party, is there a process in place to consult that third party prior to the release of the information? (b) If so, what is that process?</p>	<p>(a) NO (b) N/A.</p>
<p>8(a) Do you use standard or special contract conditions to address the possibility that information provided by a contractor may be subject to a request for release? (b) If so, specify how those conditions deal with the matter.</p>	<p>(a) Standard conditions are used (b) In each contract where a contractor considers some information sensitive for commercial reasons, he has to provide it specifying that the information is sensitive, in order to permit to the authority to make a decision on secrecy.</p>
<p>9(a) If there are arrangements for the release of information, how is that information released? (For example is it simply provided to the person who made the request, or is it more widely published e.g. via a website?)</p>	<p>Only to the person who made the request</p>
<p>10. If information is released, what conditions are placed on the use of that information? (For example are there copyright restrictions on copying or publication?)</p>	<p>All restrictions are valid also on the use of the information released</p>

11. Is there a central body within your nation that is responsible for providing advice on the release of government information to the public?	N/A. There are local bodies in each Public Administration which are responsible for providing advice. They are called URP (Ufficio Relazioni con il Pubblico - Offices responsible for public relationships).
12. If there is a central body responsible for public access to information, how may this body be contacted?	N/A. Any person can contact URP through the dedicated channels.
13. If you do not have specific arrangements as noted in Question '1' above regarding release of information to the public, what is your Government's general policy on making information available to the public – is it a general policy of release unless the information falls within an excepted category or a general policy of confining Government-held information within Government?	N/A
14. If your response to '11' above indicates that you have a general policy of releasing information, please provide answers to questions '2' to '10' above in the light of this policy to indicate how the issues in those questions are addressed within the policy.	N/A
15. Is there a website in your nation that provides information on national rules, regulations or procedures that apply to the release of information? If so, please provide details.	

Responses From **UK**

<u>Question</u>	<u>Answer</u>
<p>1. (a) Are there specific arrangements within your nation for information held by the Government to be released to members of the public e.g. under a Freedom of Information Act? (b) If so, specify those arrangements.</p>	<p>(a) Yes.</p> <p>(b) The main specific arrangement in the UK is The Freedom of Information Act 2000 (FOIA).</p> <p>Release of environmental information is governed by the Environmental Information Regulations 2004 (EIR). These regulations are derived from European legislation (Directive 2003/4/EC on public access to environmental information)</p> <p>Where an individual requests the release of personal information held by the Government:</p> <ul style="list-style-type: none"> - where that information relates to the individual making the request any release will be governed by the Data Protection Act 1998 (DPA); - where that information relates to any other person any release will be governed by the FOIA.
<p>2. If there are specific arrangements for the release of information, who may apply for that release? (For example are there nationality or residence requirements?)</p>	<p>“Any person” may make a request for information under the FOIA (section 1(1) FOIA). There are no residency or nationality requirements.</p>
<p>3(a) If there are specific arrangements for the release of information, is there a time limit within which the Government must respond to these requests? (b) If so, what is that time limit?</p>	<p>(a) Yes.</p> <p>(b) The time limit is 20 working days from receipt of a valid request (section 10 FOIA). The public authority may however be given more time to respond where this is necessary in order to properly consider whether the release of information is in the public interest (usually this is a no more than a</p>

	further 20 working days).
<p>4(a) If there is a requirement for information to be released under '1' above, are there exemptions to the requirement? (b) What are they?</p>	<p>(a) Yes. A number of exemptions from disclosure are provided by the FOIA. These are split into "Absolute" exemptions and "Qualified" exemptions.</p> <p>Where an Absolute exemption applies the information can simply be withheld without the need to consider any other factors.</p> <p>Where a Qualified exemption applies a public authority may only withhold information if the public interest in withholding the information outweighs the public interest in disclosing the information.</p> <p>It is also possible to 'Neither Confirm nor Deny' that information is held if the confirmation or denial would, in itself, provide exempt information.</p> <p>(b) The following exemptions are the most relevant for the business of defence procurement:</p> <p>Absolute Exemptions:-</p> <p>Section 23: Information supplied by, or relating to, bodies dealing with security matters (including the intelligence agencies and the special forces)</p> <p>Section 41: Information obtained from any other person where disclosure would be a breach of confidence actionable by any person</p> <p>Qualified Exemptions:-</p> <p>Section 24: Information which must be withheld in order to safeguard national security</p> <p>Section 26: Information which, if disclosed, would prejudice defence</p>

	<p>or the capability, effectiveness or security of relevant forces</p> <p>Section 27: Information which, if disclosed, would prejudice the UK's international relations or the UK's interests abroad</p> <p>Section 43: Information which is a trade secret or which, if released, would prejudice the commercial interests of any person</p> <p>A complete list of the available exemptions is provided in Annex B</p>
<p>5(a) Referring to '4' above, do the exemptions cover information which has been provided to your Government by a foreign Government?</p> <p>(b) If not, how do you protect information provided by foreign Governments from release?</p> <p>(c) Is the answer to '(b)' affected by whether or not the information provided by the foreign Government is owned by that Government's contractor?</p> <p>(d) If the exemptions do cover information which has been provided by a foreign Government, are there specific actions which you and/or the foreign Government should take in order to prevent the release?</p>	<p>(a) Yes. Information provided by a foreign government could be protected from disclosure by the exemptions of section 27 (International Relations) and section 41 (Information provided in confidence). Other exemptions such as section 24 (National Security) and section 26 (Defence) are also likely to apply.</p> <p>(b) Not Applicable</p> <p>(c) Not Applicable</p> <p>(d) Although it is not necessary in order for the exemptions to apply, it is good practice to ensure that all documents are marked with information identifying the owner of the information, any security classification, and whether the document is considered confidential.</p>
<p>6(a) Referring to '4' above, do the exemptions cover information which has been provided to your Government by a contractor?</p> <p>(b) If not, how do you protect a contractor's information from release?</p> <p>(c) If the exemptions do cover information provided by a contractor, are there specific</p>	<p>(a) Yes. Information provided by a contractor could be protected by section 41 (Information provided in confidence) and/or section 43 (trade secrets and commercial information). Again the information may also be subject to further exemptions, for example, section 24 (National Security) or section 26 (Defence)</p>

<p>actions which you and/or the contractor should take in order to prevent the release?</p>	<p>(b) Not Applicable</p> <p>(c) Although it is not necessary in order for the exemptions to apply, it is good practice to ensure that all documents are marked with information identifying the owner of the information, any security classification, and whether the document is considered confidential.</p>
<p>7(a) Where the information requested belongs to a third party, is there a process in place to consult that third party prior to the release of the information? (b) If so, what is that process?</p>	<p>(a) Yes.</p> <p>(b) Where the information that is requested is identified as belonging to a third party, MOD will consult that third party as necessary to determine whether an exemption should apply.</p> <p>By way of example, the process for consultation when Industry owned information is involved is set out in a notice on the MOD website (see below):</p> <p>http://www.mod.uk/NR/ronlyres/2189959A-0014-49A0-A5CB-7FAD3B8E637C/0/cpg_guideline_foi_sv.pdf</p>
<p>8(a) Do you use standard or special contract conditions to address the possibility that information provided by a contractor may be subject to a request for release? (b) If so, specify how those conditions deal with the matter.</p>	<p>(a) Yes. The MOD's standard confidentiality condition (DEFCON 531) contains provisions relating to Freedom of Information in clause 7.</p> <p>(b) DEFCON 531 provides that, to the extent permitted by the time available, the MOD will consult with the Contractor when considering any release of Contractor owned information under the FOIA. In any event the MOD will notify the Contractor of any decision to disclose the information prior to that disclosure taking place.</p> <p>Although the MOD will listen to any representations made by the Contractor regarding disclosure of</p>

	<p>the information, the final decision as to whether it should be disclosed will be made by MOD.</p> <p>A copy of DEFCON 531 is available via http://www.aof.mod.uk/aofcontent/tactical/toolkit/downloads/defcons/pdf/531.pdf</p>
<p>9(a) If there are arrangements for the release of information, how is that information released? (For example is it simply provided to the person who made the request, or is it more widely published e.g. via a website?)</p>	<p>The information will be provided to the person who made the request, if possible in the format they have requested (e.g. electronic or hard copy documents)</p> <p>Selected responses will also be published on the internet in the MOD's "Disclosure Log"</p> <p>MOD also proactively publishes information on the internet via its "Publication Scheme".</p> <p>More information can be found on the following website:</p> <p>http://www.mod.uk/DefenceInternet/FreedomOfInformation/</p>
<p>10. If information is released, what conditions are placed on the use of that information? (For example are there copyright restrictions on copying or publication?)</p>	<p>Information is provided for the personal use of the person who requested it.</p> <p>Where the information is subject to copyright (whether Crown owned or not) that copyright continues to apply. No permission is given for the copying or publication of the information.</p>
<p>11. Is there a central body within your nation that is responsible for providing advice on the release of government information to the public?</p>	<p>Requests for information should be directed at the Public Authority that holds the information and they will decide whether to publish or withhold the information in accordance with the relevant law and regulations.</p> <p>However the Government has set up</p>

	<p>The Information Commissioner's Office (ICO) in order to promote access to public information. The ICO therefore offers guidance and advice to members of the public on the law and procedures that govern public access to information.</p> <p>Where a Public Authority refuses to release information it is possible for the person who requested the information to complain to the Information Commissioner, who will then issue a decision on whether the information should be released.</p> <p>An individual or a Public Authority can appeal against a decision of the Information Commissioner by applying to the Information Tribunal.</p>
<p>12. If there is a central body responsible for public access to information, how may this body be contacted?</p>	<p>Information on the Information Commissioner's Office can be found at: www.ico.gov.uk</p> <p>(The information on the website is available in English, French, Spanish and Welsh)</p>
<p>13. If you do not have specific arrangements as noted in Question '1' above regarding release of information to the public, what is your Government's general policy on making information available to the public – is it a general policy of release unless the information falls within an excepted category or a general policy of confining Government-held information within Government?</p>	<p>The UK does have specific arrangements for the release of information (see answers to questions 1-10). These arrangements work on the basis that all information should be made available unless a specific exemption applies.</p>
<p>14. If your response to '11' above indicates that you have a general policy of releasing information, please provide answers to questions '2' to '10' above in the light of this policy to indicate how the issues in those</p>	<p>Not Applicable</p>

questions are addressed within the policy.	
15. Is there a website in your nation that provides information on national rules, regulations or procedures that apply to the release of information? If so, please provide details.	Information is available at: www.ico.gov.uk

Responses From Sweden

<u>Question</u>	<u>Answer</u>
<p>1. (a) Are there specific arrangements within your nation for information held by the Government to be released to members of the public e.g. under a Freedom of Information Act? (b) If so, specify those arrangements.</p>	<p>a) Yes. b) <i>One of the constitutional laws is the Freedom of the Press Act which in its chapter 2 states that every Swedish citizen (or a company according to case law; see also p2 below) has the right to gain access to public documents. The same chapter states what constitutes a public document and in which cases limitations to the right to gain access is permitted. Such limitations have to be given in a specific statute and the applicable one is the Public Access to Information and Secrecy Act.</i></p>
<p>2. If there are specific arrangements for the release of information, who may apply for that release? (For example are there nationality or residence requirements?)</p>	<p><i>You have to be a Swedish citizen (see above) but an alien shall be on an equality with a Swedish citizen you are in principle not entitled to investigate who the person is who makes the request to release the information and the purpose of the request. You are only entitled to require enough information in order for you to judge if there is anything to prevent a release</i></p>
<p>3(a) If there are specific arrangements for the release of information, is there a time limit within which the Government must respond to these requests? (b) If so, what is that time limit?</p>	<p>a) Yes. b) <i>Immediately when required or as soon as possible taking account of the ordinary course of work in the case of release to a person present at the premises of the public authority holding the documents. If it is a request to have a copy of the public document, such a request shall be handled with all possible speed.</i></p>
<p>4(a) If there is a requirement for information to be released under '1' above, are there exemptions to the requirement?</p>	<p>a) Yes, see answer to p 1. b) <i>In § 2 of chapter 2, Freedom of the Press Act, there is a</i></p>

<p>(b) What are they?</p>	<p><i>catalogue of general exemptions which are further developed and specified in the Public Access to Information and Secrecy Act. The exemptions concern the security of the State or the relationship with other States or international organisations; the State's financial policy, monetary policy and exchange policy; activities by a Government authority concerning inspection, control and supervision; the interests of preventing crime and taking legal measures against crime; the economical interests of the community; the protection of the individuals private and economical conditions; the interest of preserving animal and organic species.</i></p>
<p>5(a) Referring to '4' above, do the exemptions cover information which has been provided to your Government by a foreign Government?</p> <p>(b) If not, how do you protect information provided by foreign Governments from release?</p> <p>(c) Is the answer to '(b)' affected by whether or not the information provided by the foreign Government is owned by that Government's contractor?</p> <p>(d) If the exemptions do cover information which has been provided by a foreign Government, are there specific actions which you and/or the foreign Government should take in order to prevent the release?</p>	<p>a) <i>Yes, if it is not covered by another exemption the Public Access to Information and Secrecy Act chapter 15 § 1 deals with the exemption due to international relations. If it could be anticipated that such relations could be disturbed or the country otherwise could be harmed by the release of information which concerns such relations or another State or international organisation or a legal entity, authority or a citizen of another State or a stateless person, the information is classified and not subject to release.</i></p> <p><i>b) Not Applicable</i></p> <p><i>c) Not Applicable</i></p> <p>d) <i>Formally it is the character and content of the information which determines if it can be released or not and a decision not to release information due to secrecy e.g. according to 15:1 the Public Access to Information</i></p>

	<p><i>and Secrecy Act (see above) can be appealed against in a court. If a document contains information which can be subject to release restrictions (secrecy) the document should contain a secrecy marking with a certain content according to chapter 5 § 5 the Public Access to Information and Secrecy Act.</i></p>
<p>6(a) Referring to '4' above, do the exemptions cover information which has been provided to your Government by a contractor? (b) If not, how do you protect a contractor's information from release? (c) If the exemptions do cover information provided by a contractor, are there specific actions which you and/or the contractor should take in order to prevent the release?</p>	<p>a) Yes. b) Not Applicable c) See 5d) above but with ref. e.g. to chapter 31 § 16 same law.</p>
<p>7(a) Where the information requested belongs to a third party, is there a process in place to consult that third party prior to the release of the information? (b) If so, what is that process?</p>	<p>a) Formally see 5 d) above.</p> <p><i>b) In order for the authority to be able to judge if the information is subject to secrecy or if it can be released, the authority (faced with the request for release of info) often has to consult the third party (the owner of the information) before its decision.</i></p>
<p>8(a) Do you use standard or special contract conditions to address the possibility that information provided by a contractor may be subject to a request for release? (b) If so, specify how those conditions deal with the matter.</p>	<p>a) Yes. b) Except when the information concerns defence security matters (classified information), which of course is dealt with in a specific way, e.g. the Request For Quotation (RFQ) contains a clause which explains that if a contractor is going to provide information which is sensitive to him for commercial reasons and which he does not want released to third parties, he has to provide the relevant information in the tender in order for the authority to be able to make the correct decision concerning secrecy.</p>

<p>9(a) If there are arrangements for the release of information, how is that information released? (For example is it simply provided to the person who made the request, or is it more widely published e.g. via a website?)</p>	<p><i>Only provided to the person who made the request.</i></p>
<p>10. If information is released, what conditions are placed on the use of that information? (For example are there copyright restrictions on copying or publication?)</p>	<p><i>If you receive information due to the right of access to public documents this does not mean that you can do what you like with the information, .i.e. if it is subject to copyright, the legal provisions and restrictions of the Copyright Act are of course valid.</i></p>
<p>11. Is there a central body within your nation that is responsible for providing advice on the release of government information to the public?</p>	<p><i>No</i></p>
<p>12. If there is a central body responsible for public access to information, how may this body be contacted?</p>	<p><i>N/A</i></p>
<p>13. If you do not have specific arrangements as noted in Question '1' above regarding release of information to the public, what is your Government's general policy on making information available to the public – is it a general policy of release unless the information falls within an excepted category or a general policy of confining Government-held information within Government?</p>	<p><i>Not Applicable</i></p>
<p>14. If your response to '11' above indicates that you have a general policy of releasing information, please provide answers to questions '2' to '10' above in the light of this policy to indicate how the issues in those questions are addressed within the policy.</p>	<p><i>Not Applicable</i></p>
<p>15. Is there a website in your nation that provides information on national rules, regulations or</p>	

procedures that apply to the release of information?	
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If so, please provide details.	
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ANNEX B:

SPANISH CONFIDENTIALITY CLAUSE

CONFIDENTIALITY CLAUSE

This confidentiality applies to the model tests ordered by _____ from (model basin) _____ (order on. _____ and project no. _____).

[model basin] *agrees that all information?* Related to Azipod propeller design, such as any plans; drawings, geometrical information and any modifications related to the propeller model used in model tests (herein referred to as “Confidential Information”), which has been obtained from ABB Oy shall remain in sole ownership of ABB Oy and be regarded as strictly confidential and not be disclosed to any third party without the prior written consent of ABB Oy.

[model basin] agrees to reveal Confidential information only to its employees who need to know such information for the express purpose of performing the referred model tests. [model basin] expressly agrees not to use Confidential information obtained from ABB Oy lo any other purpose than performing the said model tests.

All test results and any other documents related to the geometry of the tested models of Azipod Propellers shall become Confidential Information under this agreement and remain in the sole ownership of ABB Oy.

Publication of the Confidential Information shall be at the absolute discretion of ABB Oy.

This confidentiality obligation shall remain effective for ten years from signing of this clause.

This clause shall be construed and interpreted in accordance with the laws of Spain.

Any dispute arising out of this clause shall be finally settled by arbitration in accordance with the Rules of Arbitration of the International Chamber of Commerce. The venue of the proceedings shall be Madrid, Spain and the proceedings shall be conducted in English.

This Confidentiality Clause accepted and compliance with it guaranteed by [model basin]

Date:

UK Freedom of Information Act 2000 – Exemptions from Disclosure

ABSOLUTE EXEMPTIONS (no public interest test required)	
Section	Nature of Exemption
21	Information reasonably accessible to the applicant by other means (e.g. information published on the web)
23	Information supplied by, or relating to, bodies dealing with security matters (including the intelligence agencies and the special forces)
32	Information that is only held because it is part of court records, an inquiry or arbitration
34	Information subject to parliamentary privilege
36	Information which, if disclosed, would prejudice the effective conduct of public affairs (for information held by the House of Commons or the House of Lords)
40	Information which is personal data whose release is governed by the Data Protection Act
41	Information obtained from any other person where disclosure would be a breach of confidence actionable by any person
44	Information whose disclosure is prohibited by law

QUALIFIED EXEMPTIONS (subject to a public interest test)	
Section	Nature of Exemption
22	Information intended for future publication
24	Information which must be withheld in order to safeguard national security
26	Information which, if disclosed, would prejudice defence or the capability, effectiveness or security of relevant forces
27	Information which, if disclosed, would prejudice the UK's international relations or the UK's interests abroad
28	Information which, if disclosed, would prejudice the relations between the UK's administrations
29	Information which, if disclosed, would prejudice the economic interests of the UK or the financial interests of any of its administrations
30	Information held or obtained for the purposes of criminal investigations and related proceedings conducted by public authorities (including Courts Martial)
31	Information which, if disclosed and not exempt under section 30, would prejudice law enforcement
33	Information held by public sector organisations that audit other such organisations and which, if disclosed, would prevent it carrying out this function
35	Information that relates to the formulation of government policy, Ministerial communications, advice from Law Officers or the operation of Ministerial private offices (The UK Government has stated its intention that Cabinet papers will be subject to an absolute exemption.)
36	Information which, if disclosed, would prejudice the effective conduct of public affairs
37	Information which relates to communications with the Royal Family or the conferring of honours (The UK Government has stated its intention that certain information in this category will be subject to an absolute exemption.)
38	Information which, if disclosed, would endanger the

	physical or mental health or safety of any individual
39	Information whose release is governed by the Environmental Information Regulations
42	Information subject to legal professional privilege
43	Information which is a trade secret or which, if released, would prejudice the commercial interests of any person