



Foreign &  
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Office

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15 April 2014

**FREEDOM OF INFORMATION ACT 2000 REQUEST REF: 0077-14**

Thank you for your email of 20 January 2014 asking for information under the Freedom of Information Act (FOIA) 2000. You asked:

*I am a doctoral level law student conducting research on floating armories. As very little information is publically available, on this topic, I am making information request from various UK agencies, as I am permitted to do according to the Freedom of Information Act.*

*Some of the information I am seeking is only available to the FCO and has not been released to the public. The details of the information I am seeking are listed below this message. Any help you can give me in accessing this information will be greatly appreciated.*

*Floating Armouries Questionnaire:*

*NB: Please elaborate upon all questions, rather than just answering with a yes or no. Please attach documents that summarize the material requested in each question. It is not necessary to compile independent e-mails and memorandum where documents that summarize the requested data exist, or where an FCO employee can provide a full summary of the event or policy.*

*1. In January 2013, the FCO was speaking with the Sri Lanka government and its partner AGMS about the potential use of AGMS floating armories by UK PMSCs.*

*(A) Why did the FCO initiate these talks? Were they approached by a PMSC, or were they begun on their own initiative?*

*(B) What was the outcome of these negotiations?*

*2. Did the FCO have any role in the BIS deciding to issue OGTCL specifically permitting PMSCs to use floating armories in August 2013?*

3. Regarding floating armories, in January 2013, the FCO said, "We are determined to find a solution that allows British companies to compete for contracts in a fair and transparent manner that respects legitimate security considerations." Are there any more full statements of the FCO's policy towards the use of floating armories? If so, please attach the document.

4. In the statement quoted above, the transparency of PMSC operations was revealed to be an objective of the FCO.

(A) How did the FCO formulate the transparency objective?

Was the FCO influenced by the Montreux Document, or the policy of the UN Security Council?

Although your e-mail asks for information under the FOIA, your questions are not requests for recorded information. However, in an effort to be as transparent as we reasonably can we have tried to reply to your questions as if they were for recorded information, so, for example, your question 1A has been read as meaning "[Please provide information on the initiation by the FCO of talks in Jan 2013 with the Sri Lanka Government on potential use of AGMS floating armories by UK PMSC.](#)"

I am writing to confirm that we have now completed the search for the information which you requested. The Foreign and Commonwealth Office (FCO) does hold information relevant to some of the questions and responses are detailed in Annex A below. There are a number of questions where the FCO does not hold the information you seek and I have set the detail out in Annex A.

For the information we do hold, we are unable to disclose the information you seek as it is exempt under Section 27-International relations, Section 35 – Formulation of Government Policy and/or Section 43 - Commercial Interest. I have gone on to explain the exemptions below.

I am sorry that we are not able to provide the information you seek under the FOIA. However, outside of the FOIA, and on a voluntary basis, I have gone on to provide information which I hope will be of use to you. This is also contained in Annex A.

### **Section 27(1)(a)**

Section 27(1)(a) of the Freedom of Information Act recognises the need to protect information that would be likely to prejudice relations between the UK and other states if it was disclosed. In this case, the release of information relating to HMG discussions with the Sri Lankan authorities over floating armories could harm our relationship. The application of section 27(1)(a) requires us to consider the public interest 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 Sri Lanka, particularly around the floating armoury. But section 27(1)(a) recognises that the effective conduct of international relations depends upon maintaining trust and confidence between governments. If the UK does not maintain this trust and confidence, its ability to protect and promote UK interests through

international relations will be reduced, which will not be in the public interest. Our conclusion is that, where section 27(1)(a) applies, the greater public interest lies in withholding the relevant information.

### **Section 35(1)(a)**

Section 35(1)(a) which relates to the formulation or development of government policy, in this case on the use of floating armouries in Sri Lanka, requires the application of a public interest test. It is recognised that there is public interest in the greater transparency in the decision making process to ensure accountability within public authorities. However, floating armouries are a relatively new and complex issue with potential implications for regional and international peace and security concerns and intricate legal issues. Officials need to be able to conduct rigorous and candid risk assessments of their policies and programmes including considerations of pros and cons without there being a risk of premature disclosure which might close off better options and inhibit the free and frank discussion of all policy options. For these reasons we consider that the public interest in maintaining this exemption outweighs the public interest in disclosing it.

### **Section 43(2)**

Some further information is exempt under Section 43 (2) of the Act, which relates to commercial interests, in this case of third parties. 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. 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 information outweighs the public interest in its release.

The information supplied to you continues to be protected by the Copyright, Designs and Patents Act 1988. You are free to use it for your own purposes, including any non-commercial research you are doing, and for news reporting. Any other re-use, for example commercial publication, would require the permission of the copyright holder. Most documents supplied by the FCO will have been produced by government officials and will be protected by Crown Copyright. You can find details on the arrangements for re-using Crown Copyright on the Office of Public Sector Information website.

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In keeping with the guidelines provided by the Freedom of Information Act, the information we have supplied to you may now be published on our website together with any related information that will help provide a better understanding of its wider context.

Yours sincerely,

Security Policy Department

Annex A: FOI questionnaire and response.



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.

## **Annex A: FOI Questionnaire and response:**

NB: Please elaborate upon all questions, rather than just answering with a yes or no. Please attach documents that summarize the material requested in each question. It is not necessary to compile independent e-mails and memorandum where documents that summarize the requested data exist, or where an FCO employee can provide a full summary of the event or policy.

### **1. In January 2013, the FCO was speaking with the Sri Lanka government and its partner AGMS about the potential use of AGMS floating armories by UK PMSCs.**

#### **(A) Why did the FCO initiate these talks? Were they approached by a PMSC, or were they begun on their own initiative?**

An extensive search of our records has not returned any results relating to talks between the FCO and the Sri Lankan government in January 2013. As reported in The Guardian newspaper on the 10<sup>th</sup> of January 2013, there had previously been discussions between the FCO and interested parties, including the Sri Lankan government.

In an effort to assist you- and without making a final decision- should you choose to submit a further request focusing on similar lines policy of terms as your current question 1, on talks in, say, 2012, it is likely that the details of such discussions would be exempt from release under at least Section 27(1)(a) – International Relations, and other exemptions may be relevant.

However, I have voluntarily included a general response on the use of floating armouries below which I hope you will find of use:

HMG is committed to the development of a responsible private security industry and appointed the Security in Complex Environments Group (SCEG), a special interest group hosted by Aerospace Defence Systems, as its partner for the development and implementation of standards for the UK private security industry both on land and at sea. A number of SCEG members provide counter-piracy maritime security services to merchant ships operating in the High Risk Area off the coast of Somalia and Indian Ocean.

In addition to working to raise standards, HMG are in regular contact with SCEG and individual PMSCs on more general issues relating to the private maritime security industry, including floating armouries. HMG Officials explored options for how the BIS licensing regime could be used to mitigate any risks associated with this new concept of weapon storage in the Indian Ocean. This was undertaken with the purpose of finding a solution that satisfied UK licence and security requirements and accurately reflected the interests of British PMSCs allowing them to compete for contracts in a fair and transparent manner.

#### **(B) What was the outcome of these negotiations?**

As mentioned above, I have found no record of any such talks in January 2013.

In an effort to assist you- and without making a final decision- should you choose to submit a further request focusing on similar lines policy of terms as your current question 1, on talks in,

say, 2012, it is likely that the details of such discussions would be exempt from release under at least Section 27(1)(a) – International Relations, and other exemptions may be relevant.

**2. Did the FCO have any role in the BIS deciding to issue OGTCL specifically permitting PMSCs to use floating armories in August 2013?**

The detail of these discussions is being withheld under Section 35(1)(a) – Formulation of Government Policy and Section 43(2) – Commercial Interest.

However, I can tell you on a voluntary basis that, as is standard practice on export licensing issues, the FCO was one of the UK Government Departments providing advice to BIS on floating armouries.

The FCO was consulted on, and agreed to, the draft OGTCL drawn up by BIS. This requires every company applying for the licence to provide a list of the armouries they propose to use for approval by BIS. This enables case by case scrutiny of each armoury by HMG officials and therefore meets FCO concerns.

**3. Regarding floating armories, in January 2013, the FCO said, “We are determined to find a solution that allows British companies to compete for contracts in a fair and transparent manner that respects legitimate security considerations.” Are there any more full statements of the FCO’s policy towards the use of floating armories? If so, please attach the document.**

The policy on the use of floating armouries is lead by the Department for Business, Innovation and Skills through trade licensing controls. As such, there are no specific policy documents on the use of floating armouries held by the FCO. You may wish to contact BIS at [enquiries@bis.gsi.gov.uk](mailto:enquiries@bis.gsi.gov.uk)

**4. In the statement quoted above, the transparency of PMSC operations was revealed to be an objective of the FCO.**

**(A) How did the FCO formulate the transparency objective? Was the FCO influenced by the Montreux Document, or the policy of the UN Security Council?**

The statement refers to the transparency of competition for commercial contracts. Transparency for PMSC operations is a different issue, and our expectations reflect the principles and provisions of the International Code of Conduct for Private Security Providers.

I am unable to provide any more information as we do not hold any documents relating to the Montreux Document which are in scope for your FOI request on floating armouries and the transparency of PMSC operations.

However, I can tell you on a voluntary basis that the UK was one of the early signatories of the Montreux Document and is actively involved in discussions within the forum of the UN Working Group on Mercenaries, and the open-ended intergovernmental working group. We are working to raise standards within the private security industry and consider transparency to be an important part of a responsible industry.