

By e-mail

Department of Energy & Climate Change

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Our ref: EIR Request 12/1603

Your ref: 02DEC202

11 December 2012

Dear [REDACTED],

Re: Environmental Information Regulations 2004 Request

Thank you for your e-mail request dated 13 November 2012 where you requested the following:

'This is a request for information about the European Commission's policy on offshore drilling.'

1. Please provide information relating to meetings and correspondence between the Department of Energy and Climate Change

- A. Foreign and Commonwealth Office, including the United Kingdom's Permanent Representation to the European Union, and*
- B. Department of Business, Innovation and Skills*
- C. Directorate General for Energy*
- D. UK Members of European Parliament*

That relates to the EU's draft offshore drilling regulation or directive. I would like to receive all information that is relevant but have a specific interest in information relating to:

- Granting permits: Although Member States will continue to grant licences for drillings, they will have to apply key EU criteria. Oil companies must have a contingency plan and prove that they have the financial means available to them to pay for environmental damage caused in the event of an accident.*
- Controls: Oil platforms are controlled by national authorities. These supervision tasks of national authorities should be evaluated by independent experts. This is a completely new requirement.*

- *Standards for safety equipment: Technical standards will ensure that only control equipment meeting the highest safety standards will be allowed. At the moment, EU product safety legislation does not apply to mobile offshore drillings.*
- *Damages: Oil companies will have to remedy the damage caused to the protected marine species and natural habitat up to max 200 nautical miles from the coast. At present, the EU Environmental Liability Directive does not cover fish in terms of commercial commodities but protected fish and covers only the 12 nautical mile zone as the water quality as such. The European Maritime Safety Agency (EMSA), presently focussing on pollution caused by ships, will also help on those caused by oil platforms.*
- *International: The Commission will work for implementing existing international conventions and new common initiatives. At the moment, the protocol of the Barcelona Convention governing safety of oil rigs in the Mediterranean is not in force yet, as one signature is missing. If Italy will ratify as announced, the rules will enter into force. ,*

Please provide information relating to meetings that includes, but is not limited to:

- i) Time*
- ii) Date*
- iii) Place*
- iv) Names, job titles and organisation names of those in attendance*
- v) Any documents circulated before or during the meeting such as an agenda or briefing notes for any individuals present*
- vi) Any documents circulated after the meeting, such as a summary, minutes or action points*
- vii) Or any other form of notes taken at the meetings specified above. '*

Some of the information that you have requested constitutes environmental information and falls within the Environmental Information Regulations (EIR)s, but to the extent it does not, it falls within the Freedom of Information Act. Without prejudice to that analysis, we have treated all of the requested information as if it did fall within the Environmental Information Regulations (EIR)s and dealt with your request under the terms of the EIRs accordingly.

I am writing to advise you that following a search of our paper and electronic records, I have established that the Department does hold information falling within the scope of your request, in relation to A, C and D above, and I attach details of meetings accordingly. However, Regulation 12(3) of the EIRs provides an absolute exemption for personal data, which then falls to be dealt with under the Data Protection Act (DPA). Personal data of third parties can only be

¹ http://europa.eu/rapid/press-release_MEMO-10-486_en.htm?locale=en

disclosed in accordance with the data protection principles. In particular, the first data protection principle requires that disclosure must be fair and lawful and must comply with one of the conditions in Schedule 2 of the DPA. We do not think that it is fair to release the names and contact details of DECC staff below Senior Civil Service level, or staff in other organisations and do not think that any of the relevant conditions in Schedule 2 of the DPA apply. As a result, the names and contact details of staff in DECC below Senior Civil Service level and other organisations have been redacted from these documents.

The remaining information that we hold relating to correspondence and minutes of meetings has been withheld as it falls under the exception in regulation 12(5)(a) of the EIRs, which involves international relations and under the exception in regulation 12(4)(e) of the EIRs, which involves internal communications. In applying these exceptions we have had to balance the public interest in withholding the information against the public interest in disclosure. The factors we considered in deciding where the public interest lay are considered below. In considering these, we have applied a presumption in favour of disclosure as required by regulation 12(2) of the EIRs.

We recognise the public interest arguments in favour of disclosing this information. In particular, we recognise that greater transparency makes Government more open and accountable. However, any public interest in the disclosure of such information must be balanced with the need to ensure our continued close workings with the European Union, allowing our Ministers and officials to discuss openly important issues and measures to protect our interests abroad. Disclosure could prejudice relations between the UK, the European Commission and other European member states of the European Union. There is also a need to ensure that Ministers and advisers can discuss policy and advisers can brief Ministers in a manner which allows for frank exchanges of views and opinions about important issues.

In considering the arguments against disclosure, we have taken into account the fact that the requested information relates to ongoing areas of international environmental interest and the formulation and development of new policy areas. It is felt that it would not be appropriate to disclose this information as it could prejudice the UK's relations with the European Union and other member states and impact the successful conclusion to a number of ongoing policy areas in development.

We therefore consider that the public interest arguments in favour of withholding this information outweigh the public interest arguments in favour of its disclosure.

Appeals Procedure

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within

two months of the date of receipt of the response to your original letter and should be addressed to the Department.

Please remember to quote the reference number above in any future communications.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours sincerely

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