



# Attorney General's Office

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Christopher Lamb

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30 January 2018

Dear Mr Lamb

## **ICO Investigation in relation to Freedom of Information request: FOI[54]17 / FOI[60]17**

We write further to your requests for information concerning the crime of aggression and your complaint made the Information Commissioner's Office about our refusal of your information requests.

The International Criminal Court has now published various documentation concerning the Sixteenth session of the Assembly of States Parties, see: [https://asp.icc-cpi.int/en\\_menus/asp/sessions/documentation/16th-session/Pages/default.aspx#documentation](https://asp.icc-cpi.int/en_menus/asp/sessions/documentation/16th-session/Pages/default.aspx#documentation) .

This includes a document referred to as '*Report on the activation of the jurisdiction of the International Criminal Court over the crime of aggression*'. We attach a copy of that report. At pages 15 – 19 it includes a position paper submitted by the UK and a number of other States. This report previously formed part of the withheld information.

Having reviewed your request again we amended our approach on two issues.

First, we consider that some of the withheld information is also exempt on the basis of section 27(2) of FOIA. Section 27(2) applies to confidential information obtained from a State other than the United Kingdom or from an international organisation or international court. Information is confidential under section 27(2) while the circumstances in which it was obtained make it reasonable for the State, organisation or court to expect that it will be so held. The public interest balancing exercise in relation to section 27 has been set out in detail in earlier correspondence to you and we maintain that the public interest favours withholding the information.

Secondly, we consider that some of the withheld information which we have confirmed that we hold is also information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. It is therefore exempt information under section 42(1). Again the public interest balancing exercise in relation to section 42 has been set out in detail in earlier correspondence to you and we maintain that the public interest favours withholding the information.

Yours sincerely

FOI Officer

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