

Thank you for your e-mail of 18 April 2013 requesting a review of the refusal notice of 17 April 2013. The Serious Fraud Office ("SFO") has now carried out that review and upholds the decision for the reasons set out below.

#### Section 30 Freedom of Information Act 2000 ("FOIA")

You raise further points about the public interest in your email of 18 April 2013. While, as you say, there is a public interest in demonstrating that serious crime is being investigated effectively and impartially, there is also a public interest in protecting the investigative and prosecutorial process as set out in our letter of 17 April 2013. I agree with the reasoning in our response of 17 April 2013 and the conclusion that the balance of the public interest test favours neither confirming nor denying that the SFO holds the information you have requested. Accordingly I uphold the decision that the duty in Section 1(1)(a) FOIA does not apply, by virtue of Section 30(3) FOIA. This should not be taken as an indication that the information you requested is or is not held by the SFO.

#### Section 27 FOIA

In addition, I consider that the information which you seek in your request numbered 2 "*confirmation that the SFO investigation is co-operating with Swiss, Cypriot, Latvian, and Lithuania*" is, or would be, exempt by virtue of section 27(1)(a) FOIA which exempts information if its disclosure would be likely to, prejudice relations between the UK and any other State. A copy of the provision can be found at Annex 1.

Section 27(4) FOIA provides that the duty to confirm or deny does not arise if to do so would be likely to, among other matters, prejudice relations between the UK and any other State.

However, the section 27 FOIA exemption is a qualified exemption and therefore in order for it to apply the SFO must show that in all the circumstances of the case, the public interest in maintaining the exclusion of the duty to confirm or deny outweighs the public interest in disclosing whether or not the SFO holds the information. This is known as the public interest test.

#### Public Interest Test

There is a general public interest in promoting accountability and transparency by the SFO, the decisions taken by it and in how it spends public money. There is also a public interest in demonstrating that the SFO investigates fraud and corruption effectively and impartially, whether this is in connection with its own investigations and prosecutions, or through engagement and co-operation with its international partners.

However, there is also a public interest in ensuring that the SFO does not damage international relations by undermining the investigations and prosecutions of other jurisdictions. Even where it is public knowledge that proceedings are taking place abroad, to confirm or deny whether we hold information of the type requested by you may be damaging as it would tend to disclose what steps have or have not been taken by foreign authorities in connection with their investigations, and what stage those investigations have reached. Disclosure of this type of information could adversely affect the UK's relationships with other countries in regard to co-operation in criminal matters either in a specific case or in the future. Further, it is established international practice that requests for assistance in criminal matters are made in confidence and are not disclosed outside of government departments, agencies, courts or enforcement agencies. The release of any details concerning such requests which may or may not have been made may impact on the willingness of other countries to engage with the UK on these issues.

Following the above consideration I have determined that in all the circumstances of the case the public interest favours maintaining the exclusion of the duty to confirm or deny whether the SFO holds the requested information.

**Please note that this response should not be taken as conclusive evidence that the information you have requested does or does not exist.**

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

#### ANNEX 1

27 (1) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice—

- (a) relations between the United Kingdom and any other State,
- (b) relations between the United Kingdom and any international organisation or international court,
- (c) the interests of the United Kingdom abroad, or
- (d) the promotion or protection by the United Kingdom of its interests abroad.

(4) The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a)-

- (a) would, or would be likely to, prejudice any of the matters mentioned in subsection (1), or
- (b) would involve the disclosure of any information (whether or not already recorded) which is confidential information obtained from a State other than the United Kingdom or from an international organisation or international court.