

Annex A

Exemptions under sections 30 (b) (i) and 30 (b) (ii) of FOISA (free and frank advice and exchange of views) apply to some of the information requested. These exemptions apply because disclosure would, or would be likely to, inhibit substantially the free and frank provision of advice and exchange of views for the purposes of deliberation. The exemptions recognise the need for Ministers to have a private space within which to seek advice and views. Disclosing the content of free and frank briefing material on this will substantially inhibit such briefing in the future, particularly because these discussions relate to sensitive issues such as relations with foreign governments.

These exemptions are subject to the 'public interest test'. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exemptions. We have found that, on balance, the public interest lies in favour of upholding the exemptions. We recognise that there is a public interest in disclosing information as part of open, transparent and accountable government, and to inform public debate. However, there is a greater public interest in allowing a private space within which officials can provide free and frank advice and views to Ministers being briefed ahead of meeting representatives of foreign governments.

Annex B

An exemption under section 32 (1) (a) of FOISA (international relations) applies to some of the information requested. This exemption applies because disclosure would, or would be likely to, prejudice substantially relations between the United Kingdom and China. The effective conduct of international relations depends upon maintaining trust and confidence between the UK Government and other States. In this case, the information about China was given to the Scottish Government on the understanding that it would be treated as being in confidence. If the Scottish Government does not respect this confidence, the UK Government's relations with other States and its ability to protect and promote UK interests will be substantially prejudiced. States such as China, are likely to be more reluctant to share sensitive information with Scotland or other parts of the United Kingdom in future, which would reduce both the frequency and openness of communications with the UK.

This exemption is subject to the 'public interest test'. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption. We recognise that there is a public interest in disclosing information as part of open, transparent and accountable government, and to inform public debate. However, there is a greater public interest in ensuring that the UK Government is able to maintain good relations with China, in order to protect and promote UK interests abroad. There can be no public interest in jeopardising those relations by the Scottish Government disclosing confidential information or information which China has specifically asked us to withhold.

Annex C

An exemption under section 33 (1) (b) of FOISA (commercial interests) applies to some of the information requested. This exemption applies because disclosure of this particular information would, or would be likely to, prejudice substantially the commercial interests of a number of companies or

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organisations mentioned in the briefing.

This exemption is subject to the 'public interest test'. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption.

Annex D

An exemption under section 38 (1) (b) of FOISA (personal information) applies to some of the information requested because it is personal data of a third party, ie names/contact details of individuals, and disclosing it would contravene the data protection principles in Article 5 (1) of the General Data Protection Regulation and in section 34 (1) of the Data Protection Act 2018.

This exemption is not subject to the 'public interest test', so we are not required to consider if the public interest in disclosing the information outweighs the public interest in applying the exemption.

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