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Directorate E- Neighbouring countries, USA & Canada  
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The Head of Unit

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*By registered letter with acknowledgment of receipt*

Mr Max Bank  
on behalf of LobbyControl  
Am Justizzentrum 7  
50939 Cologne  
Germany

*Advance copy by email:* [ask+request-4636-1911210a@asktheeu.org](mailto:ask+request-4636-1911210a@asktheeu.org)

**Subject: Your application for access to documents – Ref GestDem No 2017/5319**

Dear Mr Bank,

I refer to your application dated 18 September 2017 in which you make a request for access to documents under Regulation (EC) No 1049/2001<sup>1</sup> ("Regulation 1049/2001"), registered on the same date under the above mentioned reference number.

We would like to apologise for the delay in processing your request, which is due to a large number of access to documents requests being dealt by DG TRADE.

In your application you request access to:

- *"A list of meetings of DG Trade officials and/or representatives (including the Commissioner and the Cabinet) and the Transatlantic Business Council (TABC) in which the Trade in Services Agreement (TiSA) as well as US-EU trade relations were discussed (between January 2015 and today, i.e. 14.09.2017);*
- *Minutes and other reports of these meetings", and*
- *All correspondence (including emails) between DG Trade officials and/or representatives (including the Commissioner and the Cabinet) and the Transatlantic Business Council (TABC) in which the Trade in Services Agreement*

<sup>1</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 20 May 2001 regarding public access to European Parliament, Council and Commission documents, OJ L 145, 31.5.2001, p. 43.

*(TiSA) as well as US-EU trade relations were discussed (between January 2015 and today, i.e. 14.09.2017)".*

We have identified 14 meetings with the TABC. A list of these meetings is contained in Annex I to this reply.<sup>2</sup>

In addition, we have identified 11 documents related to these meetings, including correspondence. A list of these documents is enclosed in Annex II to this reply.

Having examined the documents in light of the applicable legal framework, I am pleased to fully release them. However, some personal data have been withheld in documents 1(a), 1(b), 2, 3, 4(a), 6(a) and (b), 7, 8(a), 9(a), 10(a) and (b) and 11, in accordance with Article 4.1(b) of Regulation 1049/2001. The legal reasoning underlying the protection of these personal data is provided below. A copy of the documents is enclosed.

Please note that parts of documents 1(d), 3, 6 and 11 have been marked "out of scope" as they concern topics that are unrelated to the subject matter of your application.

Moreover, documents 1(c), 8(b) and 9(b) are available on the website of TABC and therefore have not been attached to this reply. References to the online version of these documents have been included in Annex II.

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Article 4.1(b) of Regulation 1049/2001 provides that "[t]he institutions shall refuse access to a document where disclosure would undermine the protection of: [...] privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data".

The Court of Justice has ruled that "where an application based on Regulation 1049/2001 seeks to obtain access to documents containing personal data" "the provisions of Regulation 45/2001, of which Articles 8(b) and 18 constitute essential provisions, become applicable in their entirety"<sup>3</sup>.

Article 2(a) of Regulation 45/2001 provides that "'personal data' shall mean any information relating to an identified or identifiable natural person [...]". The Court of Justice has confirmed that "there is no reason of principle to justify excluding activities of a professional [...] nature from the notion of 'private life'"<sup>4</sup> and that "surnames and forenames may be regarded as personal data"<sup>5</sup>, including names of the staff of the institutions<sup>6</sup>.

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<sup>2</sup> This list was created in accordance with the Code of Good Administrative Behaviour (OJ L267, 20.10.2000, p.64).

<sup>3</sup> Judgment in *Guido Strack v Commission*, C-127/13 P, EU:C:2014:2250, paragraph 101; see also judgment in *Commission v Bavarian Lager*, C-28/08 P, EU:C:2010:378, paragraphs 63 and 64.

<sup>4</sup> Judgment in *Rechnungshof v Rundfunk and Others*, Joined cases C-465/00, C-138/01 and C-139/01, EU:C:2003:294, paragraph 73.

<sup>5</sup> Judgment in *Commission v Bavarian Lager*, C-28/08 P, EU:C:2010:378, paragraph 68.

According to Article 8(b) of this Regulation, personal data shall only be transferred to recipients if they establish *"the necessity of having the data transferred"* and additionally *"if there is no reason to assume that the legitimate interests of the data subjects might be prejudiced"*. The Court of Justice has clarified that *"it is for the person applying for access to establish the necessity of transferring that data"*<sup>7</sup>.

Documents 1(a), 1(b), 2, 3, 4(a), 6(a) and (b), 7, 8(a), 9(a), 10(a) and (b) and 11 all contain names and other personal information that allows the identification of natural persons.

I note that you have not established the necessity of having these personal data transferred to you. Moreover, it cannot be assumed, on the basis of the information available, that disclosure of such personal data would not prejudice the legitimate interests of the persons concerned. Therefore, these personal data shall remain undisclosed in order to ensure the protection of the privacy and integrity of the individuals concerned.

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In accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review this position.

Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the Secretary-General of the Commission at the following address:

European Commission  
Secretary-General  
Transparency unit SG-B-4  
BERL 5/282  
B-1049 Bruxelles

or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu)

Yours sincerely,



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<sup>6</sup> Judgment in *Guido Strack v Commission*, C-127/13 P, EU:C:2014:2250, paragraph 111.

<sup>7</sup> *Id.*, paragraph 107; see also judgment in *Commission v Bavarian Lager*, C-28/08 P, EU:C:2010:378, paragraph 77.