



EUROPEAN COMMISSION

Directorate-General for Trade

Directorate C - Asia and Latin America
Latin America

Brussels, **- 2 FEB. 2018**
C.3 LDLC/alf (2018)722076

*By registered letter with
acknowledgment of receipt:*

Mr Hans Wetzels
Postdamer Strasse 101
D - 10785 Berlin (Germany)

Advance copy by email:

[ask+request-4777-
5749c785@asktheeu.org](mailto:ask+request-4777-5749c785@asktheeu.org)

**Subject: Your application for access to documents – Ref GestDem No
2017/6808**

Dear Mr Wetzels,

I refer to your email of 9 November 2017 in which you make a request for access to documents under Regulation (EC) No 1049/2001¹ ("Regulation 1049/2001"), registered on the 13 November 2017 under the reference number GestDem No 2017/6808.

You request access to:

"- Any study, impact assessment, forecast, paper or other document - commissioned or authored by any part of the European Commission, or received from (or representatives from) EuropaBio, Monsanto, Bayer Crop Science, Syngenta, Dow Chemical, DuPont, BASF, Glencore, COPA COGECA or Cargill concerning or mentioning negotiations for a EU-Mercosur Free Trade Agreement between June 2015 and October 2017.

- a list of meetings including detailed minutes and any other reports of such meetings between DG TRADE's officials (including the Commissioner and his Cabinet members) and (or representatives from) EuropaBio, Monsanto, Bayer Crop Science, Syngenta, Dow Chemical, DuPont, BASF, Glencore, COPA COGECA or Cargill concerning or mentioning negotiations for a EU-Mercosur Free Trade Agreement between June 2015 and October 2017".

¹ 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.

I apologise again for the delay in preparing the reply to your request. And we have not yet fully completed the reply - but to already provide you with an initial set of documents we have prepared this first set of documents that is included as annexes to this letter. We hope to finalise the remaining part of the reply as soon as possible.

The first set of identified documents that falls within the scope of your request includes the following:

- The report of a meeting between the Deputy-Head of Cabinet of Commissioner Malmström and Copa-Cogeca on 21 January 2016 (Ares(2016)739623) ("document 1");
- The report of a meeting between the Deputy-Head of Cabinet of Commissioner Malmström and Copa-Cogeca on 22 June 2016 (Ares(2016)3000058) ("document 2");
- The report of a meeting between Commissioner Malmström and Copa-Cogeca on 19 September 2016 (Ares(2016)5454014) ("document 3");
- The report of a meeting between the Deputy-Head of Cabinet of Commissioner Malmström and Copa-Cogeca on 28 September 2017 (Ares(2018)472382) ("document 4");
- The report of a meeting between the Deputy-Head of Cabinet of Commissioner Malmström and Copa-Cogeca on 5 December 2017 (Ares(2016)5968634) ("document 5").

In addition, Commissioner Malmström met Copa-Cogeca on 8 December 2016. The Commissioner's follow-up note to this event is available on our website: <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1597>.

I am glad to inform you that access can be granted to the content of these identified documents. However, some personal data have been withheld in accordance with Article 4(1)(b) of Regulation 1049/2001. The legal reasoning underlying the protection of these personal data is provided below. Copies of the accessible documents are enclosed.

The names of the Members of Cabinets are disclosed, in line with the Commission's commitment to ensure transparency and accountability². The names of officials at Director level or above are also released. For Copa and for Cogeca, the names of the Presidents are also disclosed, as well as the names of the Secretary-General and Director for Commodities and Trade of Copa-Cogeca.

² See Commission decisions C(2014) 9051 and C(2014) 9048 of 25 November 2014.

Please note that parts of some documents have also been marked as falling outside the scope of your request as they concern topics different from those mentioned in your request.

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 applicable legislation in this field is Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data³.

Article 2(a) of Regulation 45/2001 provides that “‘personal data’ shall mean any information relating to an identified or identifiable natural person [...]”. In this respect, the jurisprudence of the EU Courts has clarified that activities of a professional nature may fall within the notion of ‘private life’⁴ and that “surnames and forenames may be regarded as personal data”⁵, including names of the staff of the institutions⁶.

In accordance with Article 8(b) of Regulation 45/2001 personal data may 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”⁷. I consider on the basis of your application, that these conditions have not been met. Therefore, in order to ensure the protection of the privacy and integrity of the individuals concerned, the personal data in question cannot be transferred.

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

³ OJ L 8, 12.1.2001, p. 1. 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” (see 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).

⁴ 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.

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

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

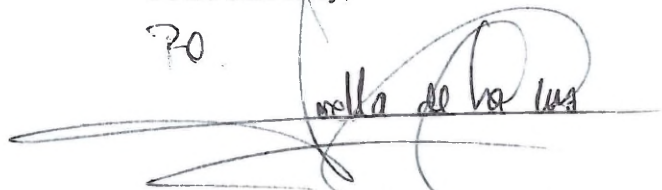
⁷ The Court of Justice has clarified that “it is for the person applying for access to establish the necessity of transferring that data” (C-127/13 P, paragraph 107; see also judgment in C-28/08 P *Commission v Bavarian Lager*, EU:C:2010:378, paragraph 77).

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
BE-1049 Bruxelles

or by email to: sg-acc-doc@ec.europa.eu

Yours sincerely,

70.

Matthias JØRGENSEN
Head of Unit