



EUROPEAN COMMISSION

Directorate-General for Trade

Directorate E – Neighbouring countries, USA and Canada
USA and Canada

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By registered letter with acknowledgment of receipt

Max Bank
LobbyControl
Am Justizzentrum 7
50939 Cologne
Germany

Advance copy by email:
ask+request-5200-feccd658@asktheeu.org

Subject: Your application for access to documents – Ref. GestDem No 2018/1280

Dear Mr Bank,

I refer to your application of 1 March 2018 in which you make a request for access to documents in accordance with Regulation (EC) No 1049/2001¹ (“Regulation 1049/2001”). Your request was registered under reference number GestDem 2018/1280.

1. SCOPE OF YOUR REQUEST

You would like to receive access to:

- 1) list of meetings of DG Trade officials and/or representatives (including the Commissioner and the Cabinet) and stakeholders in which the Regulatory Cooperation Forum (RCF) under CETA and its potential activities were discussed (between August 2017 and today, i.e. 1st of March 2018);
- 2) minutes and other reports of these meetings;
- 3) all correspondence (including emails) between DG Trade officials and/or representatives (including the Commissioner and the Cabinet) and stakeholders in which the Regulatory Cooperation Forum (RCF) under CETA and its potential activities were discussed (between August 2017 and today, i.e. 1st March 2018);

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.

4) all outreach (including e-mails and letters) by DG Trade officials and/or representatives (including the Commissioner and the Cabinet) to stakeholders in which DG Trade has asked for input on the Regulatory Cooperation Forum (RCF) under CETA and its future activities (between August 2017 and today, i.e. 1st March 2018).

As regards your request for list of meetings with stakeholders, we have identified only one meeting with CEUTIA, which took place on 29 January 2018.

Further, we have identified five documents, which are listed for ease of reference in Annex I. For each of them, the list provides a description and indicates whether parts are withheld and if so, under which ground pursuant to Regulation 1049/2001. Report of the above mentioned meeting has also been identified among the documents held by Directorate-General for Trade. Copies of the accessible documents are enclosed.

In addition, as you also note in your request, the Commission published a call for proposal inviting all the stakeholders to come forward with suggestions for topics to be discussed under CETA Regulatory Cooperation Forum. It can be found on the following link: <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1781>.

The Commission has received 26 submissions that have been published on the dedicated website: http://trade.ec.europa.eu/consultations/index.cfm?consul_id=248. The Commission is currently analysing the replies received.

2. ASSESSMENT AND CONCLUSIONS UNDER REGULATION 1049/2001

I am glad to inform you that access can be granted to the content of the identified documents. However, some personal data have been withheld in accordance with Article 4(1)(b) of Regulation 1049/2001.

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 data².

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

² 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).

jurisprudence of the EU Courts has clarified that activities of a professional nature may fall within the notion of 'private life'³ and that "surnames and forenames may be regarded as personal data"⁴, including names of the staff of the institutions⁵.

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*"⁶. 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.

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

Yours sincerely,

[e-signed]

Hiddo HOUBEN
Head of Unit

Encl.: - List of documents;
- Released documents.

³ 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.

⁴ Judgment in *Commission v Bavarian Lager*, C-28/08 P, EU:C:2010:378, paragraph 68.

⁵ Judgment in *Guido Strack v Commission*, C-127/13 P, EU:C:2014:2250, paragraph 111.

⁶ 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).