



EUROPEAN COMMISSION

DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
International and General Affairs

Inter-institutional relations, coordination, communication and strategic planning

Brussels,

Taxud E2/Svdv – taxud.e.2(2020)7196851

Mr Sergio Perez Sangiao
Calle de embajadores 308, 5º B
ES – 28045 Madrid

XXXXXXXXXXXXXXXXXXXX@XXXXXXXX.XXX

(by e-mail only)

Dear Mr Perez Sangiao,

Subject: Your application for access to documents – Ref GestDem No 2020/6490

We refer to your e-mail dated 27 October 2020 in which you make a request for access to documents under the above mentioned reference number.

You make a request for access to “***All correspondence (including reports, official letters, emails, databases, accompanying documents, minutes and memorandums of meetings, in addition to any other type of public document not mentioned in the above list) sent or received by DG TAXUD or any body that depends on it with the Government of Spain (especially with the Presidency of the Government or with the Ministry of Finance or the Ministry of Economic Affairs, but also with any other department of the Government of Spain) from 1 January 2020 to the present day on the covid-19 pandemic and on VAT, and its possible or no reduction, applied to pandemic-related products such as pharmaceuticals such as masks.***”

Following your request we have identified documents:

1. *1st Note to Directors General of the Member States’ and the UK’s customs and tax administrations - Information on Article 76 of Council Regulation (EC) No 1186/2009 and Article 53 of Council Directive 2009/132/EC (possible relief of VAT and Customs duties) – [Ares(2020)1682592 - 20/03/2020];*
2. *2nd Note to Directors General of the Member States’ and the UK’s customs and tax administrations – VAT treatment of supplies of goods needed to combat the Covid-19 outbreak - [Ares(2020)1923616 – 03/04/2020];*
3. *annex to the 2nd note: COVID-19 – Indicative list of products to be imported duty VAT free – [Ares(2020)1923616 - 03/04/2020];*
4. *letter from Agencia Tributaria dated 23 March 2020 [Ares(2020)1724911 - 24/03/2020];*

Commission européenne, B-1049 Bruxelles / Europese Commissie, B-1049 Brussel - Belgium. Telephone: (32-2) 299 11 11.
Office: J-79 (3/221) Telephone: direct line (32-2) 2921548

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5. *E-mail from the Spanish Representation dated 19 June 2020 – [Ares(2020)3038532-19/06/2020];*
6. *E-mail from the Spanish Representation dated 2 October 2020 - [Ares(2020)5186116-02/10/2020].*

In addition, information as regards this subject is publicly available on DG TAUXD's web page *COVID-19: Waiving VAT and customs duties on vital medical equipment*:

https://ec.europa.eu/taxation_customs/covid-19-taxud-response/covid-19-waiving-vat-and-customs-duties-vital-medical-equipment_en . On this webpage you will find the Commission decisions. Note that in recital 2 of the Commission Decision of 3.4.2020 on relief from import duties and VAT exemption on importation granted for goods needed to combat the effects of the COVID-19 outbreak during 2020, you will find a list of the Member States requesting this decision.

As foreseen in Article 4(4) of the Regulation, the authorities of the Member State who are at the origin of the documents have been consulted as concerns their documents. Article 4(5) of the Regulation provides that a Member State may request the institutions not to disclose (parts of) a document originating from that Member State without its prior agreement. The Spanish authorities could agree with the disclosure of their letter and e-mails mentioned under point 4, 5 and 6.

Having examined the documents requested under Regulation (EC) No 1049/2001 regarding public access to documents and taking into account the consultation of the Spanish authorities, I am pleased to inform you that the documents can be disclosed.

The Documents (except document 3) to which you have requested access contain personal data (names of Commission and Member State officials, office addresses, telephone numbers, signatures).

Pursuant to Article 4(1) (b) of Regulation (EC) No 1049/2001, access to a document has to be refused if its 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 2018/1725¹. Pursuant to Article 9(1)(b) of Regulation 2018/1725, 'personal data shall only be transmitted to recipients established in the Union other than Union institutions and bodies if the recipient establishes that it is necessary to have the data transmitted for a specific purpose in the public interest and the controller, where there is any reason to assume that the data subject's legitimate interests might be prejudiced, establishes that it is proportionate to transmit the personal data for that specific purpose after having demonstrably weighed the various competing interests'.

We consider that, with the information available, the necessity of disclosing the aforementioned personal data to you has not been established and it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned. Therefore, we are disclosing the documents requested expunged from this personal data.

In case you would disagree with the assessment that the expunged data are personal data which can only be disclosed if such disclosure is legitimate under the rules of personal data protection, you are

¹ Regulation (EC) No 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, Official Journal L 205 of 21.11.2018, p. 39.

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
Secretariat-General
Transparency, Document Management & Access to Documents (SG.C.1)
BERL 7/076
B-1049 Bruxelles
or by email to: sg-acc-doc@ec.europa.eu

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Yours sincerely,

Emer Traynor
Head of Unit

Annexes: as stated above