



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
The Director-General

Brussels
TAXUD/GT/Svdv – taxud.e.2(2021)4223196

Mrs Venetia Roxburgh
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(via e-mail and registered mail)

Dear Mrs Roxburgh,

Subject: Your application for access to documents – Ref GestDem No 2021/3333

We refer to your e-mail dated 20 May 2021, in which you make a request for access to documents, registered under the above-mentioned reference number.

You request access to: *“All documentation (including but not limited to all email correspondence, attendance lists, agendas, background papers, transcripts, recordings and minutes/notes) relating to the meeting listed below:*

1. Between Cefic and DG Thomas Gerassimos of TAXUD on the 16th April 2021”.

Following your request, we have identified following documents:

- 1. Letter from Fertilizers Europe dated 10 March 2021 [Ares(2021)1894179];*
- 2. Briefing – meeting between Gerassimos Thomas and Fertilizers Europe and CEFIC;*
- 3. PowerPoint presentation of Fertilizers Europe and CEFIC on 16 April 2021;*
- 4. Meeting report - meeting between Gerassimos Thomas and Fertilizers Europe and CEFIC on 16 April 2021[Ares(2021)3514190)].*

Documents 1 and 3

Your application has been dealt with in accordance with Regulation 1049/2001 on public access to Commission documents. In accordance with Article 4(4) of the Regulation, the third parties (Fertilizers Europe and CEFIC) were consulted as concerns the documents originating from them. In particular, they have been consulted because personal data of their representatives and staff is mentioned in the documents.

Following from Regulation (EC) No 1049/2001 and based on the consultation with the third parties, we have considered that documents 1 and 3 can be disclosed. Some references to personal data have been redacted (see below under Personal data).

Documents 2 and 4

Having examined the requested document under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, document 2 can be partially disclosed.

The object of this meeting was to exchange views relating to a possible future carbon border adjustment mechanism in the chemical/fertilizer sector. Document 2 is a briefing note, including background on the possible options regarding the set-up of this mechanism. The internal discussions regarding this subject are still going on before a future Commission decision will be taken. Disclosure of a number of confidential views for internal use as part of preliminary consultations within the Commission would harm this decision making process.

Document 2 can only partially disclosed on the basis of the first subparagraph of Article 4(3) of Regulation (EC) No 1049/2001 which states that “*access to a document, drawn up by an institution for internal use or received by an institution, which relates to a matter where the decision has not been taken by the institution, shall be refused if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure*”.

Please note further that there is no overriding public interest in the disclosure of these parts of the document which would outweigh the harm a disclosure would cause to the interests protected by the invoked exception. It is considered that this risk is foreseeable and not purely hypothetical.

Document 4 is the meeting report, which can be disclosed (expunged from personal data – see below).

Personal data

Documents 1, 2 and 4 to which you have requested access contain personal data (signatures, names Commission officials, office data, CV's).

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 2018/1725. 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.

Disclaimer

Please note that documents originating from third parties are disclosed to you based on Regulation (EC) No 1049/2001. However, this disclosure is without prejudice to the rules on intellectual property, which may limit your right to reproduce or exploit the released documents without the agreement of the originator, who may hold an intellectual property right on them. The European Commission does not assume any responsibility from their reuse.

In view of the nature of document 4, we would like to stress that Commission officials draft minutes for internal use and are usually of value only for a limited time. They solely reflect the service's interpretation of the interventions made and do not set out any official position of the third parties to which the document refers, which was not consulted on its content. It does not reflect the position of the Commission and cannot be quoted as such.

Confirmatory application

In accordance with Article 7(2) of Regulation(EC) No 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
Secretariat-General
Transparency, Document Management & Access to Documents (SG.C.1)
BERL 7/076
B-1049 Brussels
or by email to: sg-acc-doc@ec.europa.eu

Yours faithfully,

(e-signed)

Gerassimos THOMAS

Annexes: as stated above

