Subject: Your application for access to documents – GestDem 2021/6381

Dear Mr De Clerck,

I refer to your application dated 26 October 2021, in which you make a request for access to documents under Regulation (EC) No 1049/20011 (‘Regulation 1049/2001’), registered on the same date under the above mentioned reference number.

You request access to all correspondence about the negotiations for the modernisation of the Energy Charter Treaty since January 2020 – including emails, agendas, records of meetings, minutes of meetings, participants lists and any other reports of such meetings – between officials of DG Trade and fossil fuel companies, trade associations with fossil fuel companies in their membership, consultancies and law firms working for fossil fuel companies and law firms or other companies engaging in investor state dispute settlement.

We regret to inform you that we do not hold any documents that would correspond to the description given in your application.

We have not been in touch in DG Trade with companies or their associations active in the fossil fuel industry, neither have we been approached by these entities in order to have meetings. This can be explained that in DG Trade we look at the investment rules at large and that the fossil fuel carve out that is being discussed in the negotiations is first and foremost an item on which the Commission’s DG Energy has taken the lead.

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As specified in Article 2(3) of Regulation 1049/2001, the right of access as defined in that Regulation applies only to existing documents in the possession of the institution.

Given that DG Trade does not hold documents corresponding to the description given in your application, we are not in a position to fulfil your request.

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 Secretariat-General of the Commission at the following address:

European Commission
Secretariat-General
‘Transparency, Document Management & Access to Documents’ (unit SG C.1)
Rue de la Loi 200/Wetstraat 200
BERL 7/76
1049 Brussels
Belgium

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

Yours sincerely,

Sabine WEYAND