Subject: Your application for access to documents – EASE 2022/6280

Dear Mr Vranken,

I refer to your email application dated 3 November 2022, in which you make a request for access to documents under Regulation (EC) No 1049/2001 (‘Regulation 1049/2001’), registered on the same day under the above mentioned reference number.

We apologise for the delay in our response, which is not least linked to the wide scope of your request.

1. SCOPE OF YOUR REQUEST

In your request you ask for public access as follows:

‘Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting all documents (starting from 01/01/2022) related to meetings between representatives of DG Trade and industry actors (including trade associations, law firms and individual companies) with regard to the EU-US Trade and Technology Council. These documents should include:

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- all agendas for each of these meetings;
- any record of the aforementioned meetings. This may include, but not necessarily be limited to, minutes of the meetings, verbatim reports of the meetings, transcripts etc, that would provide a record of the proceedings of the meetings;
- all documents prepared or received for the purpose of these meetings and/or distributed among the attendees before or during the course of these meetings (such as – but not limited to handouts, leaflets, briefings or background notes);
- all correspondence sent or received in preparation for these meetings and/or in order to arrange these meetings, including all attachments;
- all documents prepared or received with regards to and/or as a follow up to these meetings;
- all correspondence sent or received with regards to and/or as a follow up to these meetings, including all attachments.

On the basis of your request, which we understand is supposed to cover all relevant documents up to the date of your application, i.e. 3 November 2022, we have identified 31 documents that are listed and numbered in the Annex and assessed in this reply letter. The documents were identified on the basis that the Trade and Technology Council (TTC) was their main topic.

2. **ASSESSMENT AND CONCLUSIONS UNDER REGULATION 1049/2001**

In accordance with settled case law, when an institution is asked to disclose a document, it must assess, in each individual case, whether that document falls within the exceptions to the right of public access to documents set out in Article 4 of Regulation 1049/2001.²

In view of the objectives pursued by Regulation 1049/2001, notably to give the public the widest possible right of access to documents³, ‘the exceptions to that right […] must be interpreted and applied strictly’⁴.

Having carefully examined each of the documents falling in the scope of your request, we inform you that in documents 1, 4, 6-9, 11-24, and 26-30 certain elements are not disclosed to protect personal data. An overview of the identified documents and the exception applied under Regulation 1049/2001 can be found in the Annex to this reply.

The non-disclosed elements are covered by the exceptions set out in Article 4(1)(b) of Regulation 1049/2001. The reasons justifying the application of the exceptions are set out below in section 2.1.

2.1. **Protection of personal data**

With regard to documents 1, 4, 6-9, 11-24, and 26-30 a partial release is possible, but a complete disclosure of the identified documents is prevented by the exception concerning

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³ Recital (4) of Regulation 1049/2001.
the protection of privacy and the integrity of the individual outlined in Article 4(1)(b) of Regulation 1049/2001, because they contain the following personal data:

- the names/initiels and contact information of Commission staff members not pertaining to the senior management;
- the names/initiels and contact details of other natural persons;
- handwritten signatures/abbreviated signatures and/or other handwritings of natural persons;
- other information relating to an identified or identifiable natural person.

Under Article 4(1)(b) of Regulation 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 European Union legislation regarding the protection of personal data’.

The currently applicable legislation regarding the protection of personal data is Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 (‘Regulation 2018/1725’).

Article 3(1) of Regulation 2018/1725 states that personal data ‘means any information relating to an identified or identifiable natural person [...]’. The Court of Justice has indicated that any information, which by reason of its content, purpose or effect, is linked to a particular person is to be considered as personal data. Names, signatures, functions, telephone numbers and/or initials pertaining to staff members of an institution are thus to be considered personal data.

Article 9(1)(b) of Regulation 2018/1725 does not allow the transmission of these personal data, except if you prove that it is necessary to have the data transmitted to you for a specific purpose in the public interest and where there is no reason to assume that the legitimate interests of the data subject might be prejudiced. In your request, you do not express any particular interest to have access to these personal data nor do you put forward any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

Consequently, I conclude that, pursuant to Article 4(1)(b) of Regulation 1049/2001, access cannot be granted to the personal data contained in the requested documents, as the need to obtain access thereto for a purpose in the public interest has not been substantiated and as there is no reason to think that the legitimate interests of the individuals concerned would not be prejudiced by disclosure of the personal data concerned.

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6 See judgment in Nowak, C-434/16, EU:T:2018:560, points 33 to 35.

7 Judgment in Chambre de commerce et d'industrie métropolitaine Bretagne-Ouest (port de Brest) v Commission, T-39/17, EU:T:2018:560, points 43 and 44.
2.2. Disclaimer(s)

Please kindly pay attention to the following: you may reuse public documents, which have been produced by the European Commission or by public and private entities on its behalf, based on Commission Decision 2011/833/EU of 12 December 2011 on the re-use of Commission documents. You may reuse the documents disclosed free of charge for non-commercial and commercial purposes, provided that the source is acknowledged, and that you do not distort the original meaning or message of the documents. Please note that the Commission does not assume any liability stemming from the reuse.

Furthermore, please note that documents containing content of third party origin, i.e. either documents originating from third parties or documents containing parts of third party origin, are disclosed to you based on Regulation 1049/2001. However, disclosure of such third party content 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 the reuse of those documents or parts of documents. In the same vein, the Commission cannot and does not take any responsibility in relation to any indicated third-party hyperlink (e.g. in relation to public documents indicated as accessible via third-party websites).

3. POSSIBILITY OF A CONFIRMATORY APPLICATION

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)  
   BERL 7/076  
   1049 Brussels,

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

Yours sincerely,

Matthias JORGENSEN  
Head of Unit

Enclosures: (32) Annex with list of documents,  
31 documents (thereof 25 redacted)

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