Subject: Your request for access to documents – Ref EASE No 2022/6860

Dear Ms Cann,

We refer to your e-mail of 25 November 2022 in which you make a request for access to documents, registered under the above-mentioned reference number.

You have requested the following documents:

– any impact assessments on the REACH revision submitted to the Regulatory Scrutiny Board (RSB)

– all RSB opinions on these impact assessments.

We have identified the following documents as falling in the remit of your application:

(1) The draft impact assessment submitted by DG ENV to the RSB and its annexes, ref ARES(2022)7059954

(2) The opinion of the RSB on this impact assessment, ref ARES(2022)7982198

However, after examination of your request, we have come to the conclusion that the document may only be partially disclosed. Some parts of the documents have been blanked out as their disclosure is prevented by the exception to the right of access laid down in Article 4(3) first subparagraph of Regulation (EC) No 1049/2001. These parts of the documents, which you seek to obtain, relate to a decision which has not yet been taken by the Commission.
In this specific case, the Regulatory Scrutiny Board has given recommendations for significantly improving the impact assessment. The latter is therefore still subject to extensive discussions between the Commission services. Releasing the draft impact assessment and/or the Regulatory Scrutiny Board opinion on this impact assessment at this stage would reveal preliminary views and policy options, which are currently under consideration. Services in the Commission are working on the file to address the concerns exposed by the Board and they must be free to explore all possible options in preparation of a decision. Therefore, the exception laid down in Article 4(3) first subparagraph of Regulation (EC) No 1049/2001 applies to this document.

More specifically, the redacted parts of both documents refer to the analysis and comparison of the economic, social, human health and environmental impacts of the various policy options envisaged for the proposal for the revision of the REACH Regulation.

Considering the state of completion of the documents in question, the stage of the decision-making process and its specific context, as well as the issues still to be discussed internally, the disclosure of the above-mentioned redacted parts of the requested documents would seriously undermine the preparation of the proposal for the revision of the REACH Regulation and the Commission decision-making process.

The exceptions laid down in Article 4(3) first subparagraph of Regulation (EC) No 1049/2001 apply unless there is an overriding public interest in the full disclosure of the documents. We have examined whether there could be an overriding public interest in full disclosure, but we have not been able to identify such an interest.

Please also note that the disclosed documents are preliminary drafts, which do not reflect the position of the Commission and cannot be quoted as such.

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 Secretariat-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 sincerely,

Rytis Martikonis

Electronically signed

Electronically signed on 13/01/2023 10:59 (UTC+01) in accordance with Article 11 of Commission Decision (EU) 2021/2121