Subject: Your application for access to documents – EASE 2023/2460

Dear Sir,

We refer to your email dated 21/04/2023 wherein you make a request for access to documents pursuant to Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (hereinafter ‘Regulation 1049/2001’), registered under the abovementioned reference number. We also refer to our holding reply, dated 23/05/2023, our reference ARES(2023)3570961, whereby we informed you that the time limit for handling your application was extended by 15 working days pursuant to Article 7(3) of Regulation 1049/2001.

1. SCOPE OF YOUR APPLICATION

Your request reads as follows:

```
Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting documents which contain the following information: “Thibaut Kleiner, the EU digital department’s director for international affairs, gave an update about the policy outreach with third countries on Tuesday (18 April) at a meeting of the Telecom Working Party, a technical body of the EU Council of Ministers. The presentation, seen by EURACTIV, covers the ongoing discussions of the Trade and Technology Council (TTC) with the United States and India.
```
respectively, and the digital partnerships with Japan, Singapore, South Korea and Canada.”

2. DOCUMENTS FALLING WITHIN THE SCOPE OF THE REQUEST

We have identified the following document as falling within the scope of your application:

- Powerpoint presentation for TELECOM Working Party, Thibaut KLEINER (ARES(2023)3300286)

3. ASSESSMENT UNDER REGULATION 1049/2001

We regret to inform you that access to the identified document (ARES(2023)3300286) cannot be granted as disclosure is prevented by an exception to the right of access laid down in Article 4 of Regulation 1049/2001.

Disclosure of this document is prevented by the exception of Article 4(1)(a) third indent of Regulation 1049/2001 with regard to the protection of the public interest as regards international relations.

According to settled case-law, "the particularly sensitive and essential nature of the interests protected by Article 4(1)(a) of Regulation No 1049/2001 [...] requires a margin of appreciation" for the institution. In this context, the Court of Justice has acknowledged that the institutions enjoy "a wide discretion for the purpose of determining whether the disclosure of documents relating to the fields covered by [the] exceptions [under Article 4(1)(a)] could undermine the public interest".

The document in question concerns the negotiations on EU-US Trade and Technology Council and EU-India Trade and Technology Council. There is a concrete risk that the public disclosure of this document would affect the mutual trust between the EU, the USA and India and thus undermine their relations. As the Court recognised in Case T-301/10 in’t Veld v Commission, “[...] establishing and protecting a sphere of mutual trust in the context of international relations is a very delicate exercise”. Therefore, access to this document should be refused as there is a real and non-hypothetical risk that its disclosure would undermine the public interest as regards international relations.

We have considered whether partial access could be granted to the document. However, partial access is not possible considering that the document is covered in its entirety by the abovementioned exception of Article 4 of Regulation 1049/2001.

4. 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.

---

1 See Judgment in Sison v Council, C-266/05 P, EU:C:2007:75, paragraph 35
Such confirmatory application should be addressed within 15 working days upon receipt of this letter to the Secretariat-General of the Commission by asking for a review via your portal\textsuperscript{[1]} account (available only for initial requests submitted via the portal account),

or 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

Yours faithfully,

Electronically signed

Roberto Viola

\textsuperscript{[1]} \url{https://www.ec.europa.eu/transparency/documents-request}