Dear Madam,

We refer to your application of 12 November 2023 in which you submitted a request for access to documents within the framework of Regulation 1049/2001, registered on the same date under the above-mentioned reference number.

1. SCOPE OF YOUR APPLICATION

Your application reads as follows:

"[...] Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting documents relating to the EU-India Trade and Technology Council, first ministerial round, held on May 16th, 2023. The document I'm requesting include but not are limited to:

– briefings, summaries/readouts of meeting of the TTC representatives held on May 16th 2023
– Minutes, reports and summary of the preparatory working group on "Strategic technologies, digital governance and digital connectivity [...]"

Due to the scope of your request, covering also areas falling under the responsibility of other Directorates-General, your request was split between:

a) Directorate–General for Research and Innovation (DG RTD), under reference number EASE 2023/6940,
b) Directorate–General for Communications Networks, Content and Technology (DG CONNECT), under reference number EASE 2023/6685 and
c) Directorate–General for Trade (DG TRADE), under reference number EASE 2023/6905.

This letter relates only to the reference number EASE 2023/6940.
We have identified the following documents as falling within the scope of the request:

- **Document 1.** EU-India Joint Statement - 1st meeting of the TTC 16 May 2023, Ares(2023)8418273.
- **Document 2.** RTD/6402 - Briefing for DG Marc Lemaitre. First Ministerial Meeting of Trade and Technology Council (TTC) with India.
- **Document 3.** EU TTC - Stakeholder Event for Working Groups 1 & 2.
- **Document 4.** Flash report of first ministerial meeting of TTC with India 16 May.
- **Document 5.** (TTC) with India Working Group 2 on green technologies and clean energy. Proposed Work Plan

### 3. ASSESSMENT UNDER REGULATION 1049/2001

Following an examination of the identified documents under the provisions of Regulation 1049/2001, we have arrived at the conclusion that full access can be granted to one document. Access is refused to the remaining documents as their disclosure is prevented by exceptions to the right of access laid down in Article 4 of Regulation 1049/2001.

#### A. Full access

Having examined the requested documents under the provisions of Regulation (EC) 1049/2001, and taking account of the legitimate interests of any third party concerned, we are pleased to inform you that full access can be granted to Document 1. Please find it enclosed to this letter.

#### B. Non-disclosure

We regret to inform you that access to Documents 2-5 cannot be granted as they are covered by exceptions to the right of access laid down in Article 4 of Regulation 1049/2001.

(i) **Protection of international relations**

Article 4(1) (a), third indent of Regulation 1049/2001 states that access to a document shall be refused where disclosure would undermine the protection of the public interest as regards international relations.

The requested documents from No 2 to 5 concern ongoing discussions between the European Union (hereinafter ‘EU’) and India in the context of the EU-India Trade and Technology Council (hereinafter ‘TTC’). These documents refer to meetings were the Work Plan of the TTC, a working document between the EU and India was discussed. They also contain references to strategic considerations, actions and priority areas of this Work Plan that are currently under negotiation.

There is a concrete risk that the disclosure of the documents in question would damage the mutual trust, essential for the effectiveness of discussions, between the EU and India, as well as jeopardise the climate of confidence in the ongoing negotiations.

Consequently, a real and non-hypothetical risk exists that the disclosure of documents No 2 to 5 would undermine the international relations between the EU and India and, therefore, their disclosure is prevented by the exception, set in in Article 4(1)(a) third indent of Regulation (EC) No 1049/2001, concerning the protection of public interest as regards international relations.
(ii) Protection of the decision-making process

The second subparagraph of Article 4(3) of Regulation 1049/2001 provides that ‘access to a document, containing opinions for internal use as part of deliberations and preliminary consultations within the institution concerned shall be refused even after the decision has been taken if disclosure of the document would seriously undermine the institution’s decision-making process, unless there is an overriding public interest in disclosure.’

Documents 2, 4 and 5 are covered by this exception as contain opinions, internal reflections and views of the Commission services as well as possible scope of actions under consideration by both sides (India and the EU) on the Work Plan of the TTC.

Revealing this information in the context of the EU-India Trade and Technology Council negotiations, would deter third parties and Commission services and officials from putting forward their views free from external pressure, with the consequent foreseeable risk that this would entail to the internal decision-making process of the Commission.

(ii) Protection of privacy and integrity of individuals

According to Article 4(1)(b) of Regulation (EC) 1049/2001, access to documents is refused where 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 requested documents 2 to 4 contain personal data such as names, surnames, CVs, functions, telephone numbers, electronic and professional addresses of Commission’s officials not having the function of senior management staff and of the third parties identified in the documents. This information clearly constitutes personal data in the meaning of Article 3(1) of Regulation 2018/1725.

Article 9(1)(b) of the Data Protection Regulation 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 argument to establish the necessity to have the data transmitted for a specific purpose in the public interest.

4. REUSE OF DOCUMENTS

You may reuse public documents which have been produced by the European Commission or by public and private entities on its behalf based on the Commission Decision on the reuse of the Commission documents. You may reuse the disclosed documents free of charge and 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 liability stemming from the reuse.

5. 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 confirmatory application should be addressed within 15 working days upon receipt of this letter to the Secretariat-General of the Commission. You can submit it in one of the following ways:
by asking for a review via your portal (¹) account (available only for initial requests submitted via the portal account),

or by mail:
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,

Marc Lemaître

(¹) https://www.ec.europa.eu/transparency/documents-request