



EUROPEAN COMMISSION

Directorate-General for Trade

The Director General

Brussels, 17 OCT. 2011
TRADE/

Ms. Helen Darbishire
Access Info Europe
C/Príncipe de Anglona, 5; bajo dcha.
28005 Madrid (Spain)
Email: ask+request-2-7c2362ab@asktheeu.org

Subject: Request for access to documents (GESTDEM 2011/5002)

Dear Ms. Darbishire,

Thank you for your e-mail dated and registered on 28th September 2011 requesting access to documents under Regulation No 1049/2001¹ regarding public access to European Parliament, Council and Commission documents ("the Regulation").

We understand from your request that you would like to access the negotiating mandate for a free trade agreement between the EC and its Member States and India approved by the Council in April 2007.

We are pleased to enclose a copy of the Explanatory Memorandum and of the Recommendation of the document requested, i.e. the "*Recommendation from the Commission to Council authorising the Commission to negotiate a free trade agreement with India on behalf of the European Community and its Member States*" [SEC(2006) 1558 final/2]. The remaining part of the document in question, i.e. Annex I: Negotiating Directives, is covered by the exceptions provided in the Regulation and are therefore not being made available.

In our opinion the release of the recommendation for the EU's negotiating position vis-à-vis India could affect the position of our partner and therefore the outcome of the negotiations which are still ongoing. It would be prejudicial to the climate of confidence necessary for the successful outcome of the relevant ongoing negotiations, and therefore harm the EU's international relations (Article 4.1.a., 3rd indent). In addition, any disclosure of the document which was designed for internal use would seriously undermine the EU's negotiating strategy by providing India with a benchmark against which it could assess the

¹ OJ L145, 31.05.2001, page 43.

outcome at the current stage of negotiation with the start point for the process and hence internal decision making on a future agreement (Article 4.3).

We have also considered whether the risk of making public certain elements of the EU's negotiating strategy and hence the risk of undermining the subsequent decision process on the agreement is outweighed by the public interest in accessing the documents. We do not believe that to be the case.

We hope this information will meet your needs. I must however, remind you that these documents cannot be reproduced or disseminated for commercial purposes unless the Commission has first been consulted.

If you want this position to be reviewed, you should write to the Commission's Secretary-General at the address below, confirming your initial request. You have fifteen working days in which to do so from receipt of this letter, after which your initial request will be deemed to have been withdrawn.

The Secretary-General will inform you of the result of this review within fifteen working days from the registration of your request, either granting you access to the documents or confirming the refusal. In the latter case, you will be informed of how you can take further action.

All correspondence should be sent to the following address:

The Secretary-General
European Commission
B-1049 BRUSSELS
Sg-Acc-Doc@ec.europa.eu

Yours sincerely,

A handwritten signature in dark ink, consisting of a stylized 'J' and 'L' followed by a long horizontal stroke.

Jean-Luc Demarty

Encl.