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Directorate-General for Trade

Directorate A - Resources, Information and Policy Coordination
Information, Communication and Civil Society

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***By registered letter with
acknowledgment of receipt***

Natacha Cingotti
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Advance copy by email:

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Subject: Your application for access to documents – Ref GestDem 2015/4320

Dear Ms Cingotti,

We refer to your e-mail of 31 July 2015 in which you make a request for access to documents under Regulation (EC) No 1049/2001 ("Regulation 1049/2001"),¹ registered on 10 August 2015 under the above mentioned reference number.

Please accept our apologies for the delay in replying to your request, which is mainly due to the simultaneous processing of a large number of requests for access to documents.

1. SCOPE OF YOUR REQUEST

You request access to the following documents:

- 1) *"a list of meetings with public relations and public affairs consultancies, communications and/or media organisations, in relation to the European*

¹ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 20 May 2001 regarding public access to European Parliament, Council and Commission documents, OJ L 145, 31.5.2001, p. 43.

Commission's communications strategy on the EU-US trade negotiations (since 1 January 2015);

- 2) *minutes and other reports of these meetings;*
- 3) *any contracts between the European Commission and the organisations mentioned in 1) about the provision of services in relation to the proposed EU-US trade deal TTIP (since 1 January 2015)."*

We have considered as the relevant timeframe for the requested documents the period from 1st January 2015 to 31st July 2015 (date of your application).

The Commission, and in particular DG Trade, carries out a number of communication and transparency activities with the aim of contributing to a more factual debate on the TTIP negotiations, and trade policy more generally, and promote greater transparency, such as follows:²

- The Commission has regular exchanges with journalists in relation to questions they raise on the ongoing TTIP negotiations. The correspondence with journalists is handled by the European Commission's Spokesperson Service.
- Accredited journalists have the possibility to meet with the chief negotiator before and after each TTIP negotiation round. Furthermore, in line with our transparency initiative, the stakeholder's consultations which take place during each negotiating round are open to the press. Generally, invitations to attend these events are sent by the Spokesperson Service via a newsletter called "Rapid". In this respect, you may want to visit the European Commission Press Release page at the following link: <http://europa.eu/rapid/>. We also announce these events on the DG TRADE website and via our Twitter accounts @EU_Trade and @EU_TTIP_Team.
- DG Trade organised seminars for journalists with the support of the European Journalism Centre (EJC) in Maastricht. These events are designed to give media professionals background information to better understand the EU decision-making process and its political orientation. The role of EJC is to define the criteria for participation of the journalists, prepare the programme and invite the speakers. The EJC is also in charge of the logistical organisation of the events, e.g. booking of conference facilities, organisation of travel and accommodation for the participants. During the relevant period of your request, the Commission organised one seminar for journalists, on 3-4 March 2015 entitled "EU-US Trade Agreement Negotiations / Background briefing for journalists".
- In 2014 and 2015, DG Trade made several publications to inform the public about the content and context of the TTIP negotiations, such as on "*The top 10 myths about TTIP - separating facts from fiction*", "*Inside TTIP - an overview and*

² This information is provided under the Code of Good Administrative Behaviour (OJ L 267, 20.10.2000, p. 63).

chapter-by-chapter guide in plain English", *"TTIP - the opportunities for small and medium-sized enterprises"*, *"Small and medium sized enterprises and the Transatlantic Trade and Investment Partnership"*, *"Transatlantic Trade and Investment Partnership - the economic analysis explained."* These publications are available on the dedicated TTIP webpage of DG Trade at http://ec.europa.eu/trade/policy/in-focus/ttip/documents-and-events/index_en.htm#_documents

- In 2014, DG Trade produced videos to inform the public on specific aspects of the TTIP negotiations, such as on the *"Benefits of TTIP"*, *"Transparency in TTIP"* and *"Upholding standards in TTIP"*. These videos are available at http://ec.europa.eu/trade/policy/in-focus/ttip/documents-and-events/index_en.htm#_videos. In December 2015, DG Trade published a video prepared by ESN on *"How the EU negotiates trade deals"* (available at <http://ec.europa.eu/trade/policy/policy-making/>) to describe how we generally conduct trade negotiations.

As regards your request for access to documents, we have identified the following documents that falling within its scope:

- the programme of the journalists seminar organized with the support of the EJC on 3-4 March 2015, entitled "EU-US Trade Agreement Negotiations / Background briefing for journalists" (Ares (2016)1708350) ("**document 1**"); and,
- the final report of the journalists seminar of 3-4 March 2015 (Ares (2016)1708299) ("**document 2**").

Having examined these documents in light of the applicable legal framework, **we are pleased to release them**. Copies are enclosed in Annex 1. The only information removed in these documents concern personal data, such as names and job titles of Commission staff and of third parties, covered by the exception of Article 4.1(b) of Regulation 1049/2001. The names of the Commissioner and of MEPs are disclosed.

Article 4.1 (b) of Regulation 1049/2001 provides that *"[t]he institutions shall refuse access to a document where disclosure would undermine the protection of: [...] privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data."*

The Court of Justice has ruled that *"where an application based on Regulation 1049/2001 seeks to obtain access to documents containing personal data" "the provisions of Regulation 45/2001, of which Articles 8(b) and 18 constitute essential provisions, become applicable in their entirety"*.³

Article 2(a) of Regulation 45/2001 provides that *"'personal data' shall mean any information relating to an identified or identifiable natural person [...]"*. The Court of

³ Judgment in *Guido Strack v Commission*, C-127/13 P, EU:C:2014:2250, paragraph 101; see also judgment in *Commission v Bavarian Lager*, C-28/08 P, EU:C:2010:378, paragraphs 63 and 64.

Justice has confirmed that *"there is no reason of principle to justify excluding activities of a professional [...] nature from the notion of 'private life'"*⁴ and that *"surnames and forenames may be regarded as personal data"*,⁵ including names of the staff of the institutions.⁶

According to Article 8(b) of this Regulation, personal data shall only be transferred to recipients if they establish *"the necessity of having the data transferred"* and additionally *"if there is no reason to assume that the legitimate interests of the data subjects might be prejudiced"*. The Court of Justice has clarified that *"it is for the person applying for access to establish the necessity of transferring that data"*.⁷

I note that that you have not established the necessity of having these personal data transferred to you. Moreover, it cannot be assumed, on the basis of the information available, that disclosure of such personal data would not prejudice the legitimate interests of the persons concerned. Therefore, these personal data shall remain undisclosed in order to ensure the protection of the privacy and integrity of the individuals concerned.

If you wish to receive these personal data, we invite you to provide us with arguments showing the need for having these data transferred to you and the absence of adverse effects to the legitimate rights of the persons whose personal data should be disclosed.

Please note that 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. The Commission does not assume liability stemming from the reuse.

In case you would disagree with the assessment that the removed data are personal data which can only be disclosed if such disclosure is legitimate under the rules of personal data protection, you are entitled, in accordance with Article 7(2) of Regulation 1049/2001, 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 Secretary-General of the Commission at the following address:

⁴ Judgment in *Rechnungshof v Rundfunk and Others*, Joined cases C-465/00, C-138/01 and C-139/01, EU:C:2003:294, paragraph 73.

⁵ Judgment in *Commission v Bavarian Lager*, C-28/08 P, EU:C:2010:378, paragraph 68.

⁶ Judgment in *Guido Strack v Commission*, C-127/13 P, EU:C:2014:2250, paragraph 111.

⁷ *Id.*, paragraph 107; see also judgment in C-28/08 P *Commission v Bavarian Lager*, EU:C:2010:378, paragraph 77.

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

Yours sincerely,

Lutz GUELLNER
Head of Unit

Encl.: Annex 1 (2 released documents)